

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-681(WFK)  
: :  
-against- : United States Courthouse  
: Brooklyn, New York  
: :  
JEAN BOUSTANI, : Tuesday, November 5, 2019  
: 9:30 a.m.  
Defendant. :  
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TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
United States DISTRICT COURT JUDGE, and a Jury

A P P E A R A N C E S:

For the Government: RICHARD P. DONOGHUE, U.S. ATTORNEY  
EASTERN DISTRICT OF New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: MARK E. BINI, ESQ.  
HIRAL D. MEHTA, ESQ.

DEPARTMENT OF JUSTICE  
CRIMINAL DIVISION  
1400 New York Avenue  
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BY: MARGARET MOESER, ESQ.  
KATHERINE NIELSEN, ESQ.

For the Defendant: WILLKIE FARR & GALLAGHER LLP  
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BY: PHILIP F. DISANTO, ESQ.  
CASEY E. DONNELLY, ESQ.  
RANDALL W. JACKSON, ESQ.  
RAYMOND MCLEOD, ESQ.  
MICHAEL S. SCHACHTER, ESQ.

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Proceedings recorded by mechanical stenography; transcript produced by Computer-Aided Transcription.

1 MR. SCHACHTER: Good morning, Your Honor.  
2 Michael Schachter on behalf of Mr. Boustani.  
3 THE COURT: Good morning, sir, please be seated.  
4 MR. DiSANTO: Good morning, Your Honor.  
5 Philip DiSanto on behalf of Mr. Boustani.  
6 THE COURT: Good morning, please be seated, sir.  
7 MS. DONNELLY: Good morning, Your Honor.  
8 Casey Donnelly on behalf of Mr. Boustani.  
9 THE COURT: Good morning, please be seated.  
10 Mr. Boustani you may be seated as well, of course,  
11 good morning.  
12 MR. McLEOD: Good morning, Your Honor.  
13 Ray McLeod on behalf of Mr. Boustani.  
14 THE COURT: Good morning, Mr. McLeod, please be  
15 seated.  
16 All right, the defendant is present. All Counsel of  
17 record are present. Do we have any preliminary issues to  
18 address before we bring the jury in?  
19 From the Government.  
20 MR. BINI: For the Government, Your Honor, the  
21 Government would ask to have until tomorrow night to respond  
22 to ECF 327 filed by the defendant.  
23 THE COURT: The ten-page letter addressing the  
24 question of the new witness that was identified on  
25 October 28th?

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1 (In open court.)  
2 (Judge WILLIAM F. KUNTZ, II enters the courtroom.)  
3 (The following occurs outside the presence of the  
4 jury.)  
5 THE COURTROOM DEPUTY: All rise.  
6 The Honorable William F. Kuntz, II presiding.  
7 Criminal cause for trial, Docket Number 18-CR-681,  
8 United States versus Boustani.  
9 Counsel, please state your appearances for the  
10 record. Your appearances for the record.  
11 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,  
12 Katherine Nielsen, Special Agent Angela Tassone for the  
13 United States.  
14 Good morning, Your Honor.  
15 THE COURT: Good morning.  
16 We have the spellings, you may be seated.  
17 Ladies and gentlemen of the public, you may be  
18 seated.  
19 (Defendant enters the courtroom.)  
20 THE COURT: Good morning Mr. Boustani.  
21 THE DEFENDANT: Good morning.  
22 MR. JACKSON: Randall Jackson on behalf of  
23 Mr. Boustani.  
24 Good morning, Your Honor.  
25 THE COURT: Good morning, sir, please be seated.

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1 MR. BINI: Yes, Your Honor.  
2 THE COURT: The one Defense Counsel was a little  
3 concerned I might not have seen? I told you, I have no life,  
4 you could have filed it 30 seconds ago and I would have read  
5 it. I am not urging you to go that route. I know you guys  
6 are thinking, okay, we will put that to the test.  
7 Just preliminarily, your application is granted.  
8 You will be able to submit something. You should address the  
9 one of the two elephants in the room. I am not talking about  
10 myself included, but one of the two elements in the room which  
11 is the question of: Why the late notice with respect to this  
12 witness?  
13 MR. BINI: Yes, Your Honor.  
14 THE COURT: The other elephant in the room you might  
15 want to think about addressing, as sophisticated Wall Street  
16 practitioners with many clients; it is Guy Fawkes day, but I  
17 am not going to mention that ancient orator Cicero, nor his  
18 namesake, who is one of your partners. You might want to give  
19 the old Wall Street Judge some comfort that that is not part  
20 of the problem, should the Judge allow this witness to  
21 testify. You might. Or you might not.  
22 Okay.  
23 MR. BINI: Thank you, Your Honor.  
24 THE COURT: Anything else before we bring in the  
25 jury?

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1 MR. BINI: Not for the Government.  
 2 MR. JACKSON: No, Your Honor.  
 3 THE COURT: Okay.  
 4 Mr. Jackson.  
 5 THE COURTROOM DEPUTY: Yes, Judge.  
 6 THE COURT: We can have the witness brought back.  
 7 You can take the podium.  
 8 (Witness resumes stand.)  
 9  
 10 (Continued on following page.)  
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1 be sitting on Monday. The last thing in the world I want is  
 2 for a juror to schlepp -- to use a technical legal term -- all  
 3 the way here on Monday and to see the court is closed. I know  
 4 it is Guy Fawkes day, but I do not want to be burned in  
 5 effigy, so I am telling you now and I will remind you that we  
 6 are not sitting on Monday at all. You do not have to call in,  
 7 you do not have to check in. The courthouse is closed.  
 8 I may have some things to say to the lawyers, but  
 9 that is not going to be something you have to concern  
 10 yourselves with, all right? And certainly there will not be  
 11 anything that has to be done in public court. I simply wanted  
 12 to say it and make a note, Monday the Court is closed. Not  
 13 here, okay?  
 14 THE JURY: Okay, thank you.  
 15 THE COURT: Thank you. All right.  
 16 Now, sir, as I said I would ask you, have you spoken  
 17 with anyone about your testimony since leaving the witness  
 18 stand yesterday?  
 19 THE WITNESS: No.  
 20 THE COURT: Thank you.  
 21 Please continue, Counsel.  
 22 DIRECT EXAMINATION (Continuing)  
 23 BY MS. MOESER:  
 24 MS. MOESER: Good morning, ladies and gentlemen.  
 25 THE JURY: Good morning.

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1 PAVEL LVOV,  
 2 called as a witness, having been previously duly  
 3 sworn, was examined and testified as follows:  
 4 THE COURT: See? I not only read everything, I try  
 5 to think about it and when I do not have any brain cells,  
 6 which is most of the time, I have the world's best law clerks,  
 7 who have plenty of brain cells.  
 8 THE WITNESS: Good morning.  
 9 THE COURT: Welcome back.  
 10 THE WITNESS: Thank you.  
 11 THE COURT: We will bring in the jury in a minute  
 12 and then I will ask you the question I said I was going to ask  
 13 you. And you will give the answer that I hope comports with  
 14 what I hope your answer would be. We will see.  
 15 THE COURTROOM DEPUTY: All rise.  
 16 (Jury enters.)  
 17 THE COURT: Good morning, Ladies and Gentlemen of  
 18 the Jury. Again, thank you for your promptness. Please, be  
 19 seated.  
 20 You may be seated as well ladies and gentlemen of  
 21 the public.  
 22 You may be seated, sir.  
 23 Let me begin by announcing and I will try to  
 24 remember to announce this every day this week, that the  
 25 courthouse is closed on Monday for Veterans Day. We will not

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1 MS. MOESER: Good morning, Mr. Lvov.  
 2 THE WITNESS: Good morning.  
 3 MS. MOESER: Mr. Lvov, when we left off yesterday,  
 4 we were talking about Government's Exhibit 3213.  
 5 Can we pull that up, Ms. DiNardo.  
 6 (Exhibit published.)  
 7 Q Do you remember this e-mail, Mr. Lvov?  
 8 A Yes.  
 9 MS. MOESER: And we were looking at 32 --  
 10 Government's Exhibit 3213-B.  
 11 (Exhibit published.)  
 12 Q Mr. Lvov, what is Government's Exhibit 3213-B?  
 13 A This is the spreadsheet summary of the order book on the  
 14 EMATUM transaction.  
 15 Q What's an order book?  
 16 A This is the list of clients that expressed interest and  
 17 left us firm orders to buy the LPN.  
 18 Q So, looking at this spreadsheet --  
 19 MS. MOESER: Can we blow up the left half,  
 20 Ms. DiNardo, through sort of the middle? Yes, that is good.  
 21 Can you scroll over just a little to the right so we  
 22 can see that last column? No, try it again, so through  
 23 EMATUM. Great.  
 24 Q So, what's the first line entry here, Mr. Lvov?  
 25 A This is a line that shows that Alliance Bernstein

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Lvov - direct - Moeser 2652

1 Q And are they buying from VTB?

2 A Yes.

3 Q How much?

4 A Five million.

5 Q How about the third line?

6 A Ice Canyon.

7 Q Where is Ice Canyon located?

8 A Los Angeles, California.

9 Q And what's the third line represent Ice Canyon doing?

10 A We buy one million from them.

11 Q And looking at the total --

12 MS. MOESER: Do we have all the rows, Ms. DiNardo

13 showing on this? Can we show it all at once? Can we blow up

14 the left side through amount, but show all the rows,

15 Ms. DiNardo?

16 Q Mr. Lvov, can you do the rough math on the total traded

17 in the secondary market in this spreadsheet?

18 A Looks about 50 million.

19 Q And were these trades done by you or members of your team

20 at VTB?

21 A Me and members of my team.

22 Q And where were you and member of your team when you

23 committed to these trades?

24 A New York.

25 MS. MOESER: Your Honor, I'd like to admit

VB OCR CRR

Lvov - direct - Moeser 2653

1 Government's Exhibit 2505.

2 THE COURT: Any objection?

3 MR. SCHACHTER: May I see it briefly, Your Honor?

4 THE COURT: Yes.

5 Please publish it to Counsel and to the Court.

6 MR. SCHACHTER: No objection.

7 THE COURT: Admitted. You may publish.

8 (Government's Exhibit 2505 received in evidence.)

9 (Exhibit published.)

10 Q Mr. Lvov, what is Government's Exhibit 2505?

11 A This is a VCON trade confirmation.

12 Q What's a VCON trade confirmation?

13 A It's a visual confirmation of a trade that took place

14 earlier over the phone or communication by Bloomberg.

15 Q And who is this from?

16 A This is from Todd Petersen at Prudential.

17 Q And who's it to?

18 A To myself.

19 Q At what e-mail address are you using?

20 A Bloomberg.

21 Q That's at Bloomberg.net?

22 A Correct.

23 Q And what is this VCON trade confirmation representing?

24 Can you explain to the jury?

25 A Sure.

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Lvov - direct - Moeser 2654

1 This is a trade confirmation of a transaction that

2 took place on October 8th at 11:48 in the morning in a

3 security with a ticker MEMATU, which is EMATUM LPN. It shows

4 that the customer represented by a trader Todd Petersen at

5 Prudential has sold -- let me just see here... \$2.5 million

6 worth of EMATUM LPN at a price of 93.25 for the total

7 consideration of \$2,344,385.42, to settle on 11th of October,

8 2013.

9 Q And so, the total, is that the dollar number down the

10 bottom left of this VCON?

11 A Correct.

12 Q That's the total dollar value.

13 On the second line it says: Trader. And then has

14 your name.

15 What does that indicate?

16 A That's, that indicates that I executed the trade with the

17 client.

18 Q And so, is this confirmation of a trade that you

19 conducted for VTB with Prudential?

20 A Yes.

21 Q And where were you located when you conducted this trade?

22 A New York.

23 MS. MOESER: And Your Honor, if I may admit

24 Government's Exhibit 673.

25 THE COURT: Any objection to 673.

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Lvov - direct - Moeser 2655

1 MR. SCHACHTER: May I just see it briefly,

2 Your Honor.

3 THE COURT: Publish it to Defense Counsel and to the

4 Court.

5 MR. SCHACHTER: No objection.

6 THE COURT: Admitted. You may publish.

7 (Government's Exhibit 673 received in evidence.)

8 (Exhibit published.)

9 Q Mr. Lvov, what is Government's Exhibit 673?

10 A This is also a VCON trade confirmation.

11 Q How can you tell it's a VCON trade confirmation?

12 A It says so on the second line.

13 Q Is that the -- in the subject area?

14 A Yes.

15 Q And who's it from?

16 A It's from Arif Joshi.

17 THE COURT: Would you spell that, and keep your

18 voice up, and stop mumbling.

19 Go ahead.

20 THE WITNESS: A-R-I-F, J-O-S-H-I.

21 Q And who is it to?

22 A To myself.

23 Q And looking at the trader line, who is the trader on this

24 trade?

25 A Myself.

VB OCR CRR

Lvov - direct - Moeser 2656

1 Q And on the line below that, sells, what does this trade  
2 represent?  
3 A This represents my sell of \$1.3 million of EMATUM LPN.  
4 Q To -- is that to Mr. Joshi?  
5 A Correct.  
6 Q To Lazard?  
7 A Correct.  
8 MS. MOESER: And showing you Government's  
9 Exhibit 401-A, already in evidence.  
10 (Exhibit published.)  
11 MS. MOESER: We can go to page 4, Ms. DiNardo.  
12 (Exhibit published.)  
13 Q Mr. Lvov, what is Government's Exhibit 401-A page 4?  
14 A That is the same trade ticket, only a Bloomberg copy of  
15 it.  
16 Q And who is this from?  
17 A This is from myself.  
18 Q And over on the right of the first line where it says:  
19 Trader SLS.  
20 A Can you highlight?  
21 Q Yes, I can.  
22 A Yeah, trader/sales Pavel Lvov.  
23 Q That's you?  
24 A Yes.  
25 Q And what's the date on this trade?  

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Lvov - direct - Moeser 2657

1 A The date of the trade is October 4th with settlement on  
2 October 11th, 2013.  
3 Q And where were you when you exited to this trade?  
4 A In New York.  
5 Q How do you know you were in New York?  
6 A As I mentioned earlier, it's impossible for us to enter a  
7 trade ticket without physically being present on our desk in  
8 New York.  
9 Q And so, other VCONs that have this similar information  
10 with you as the trader, would they also be a confirmation of a  
11 trade in New York?  
12 A Yes.  
13 Q Did you know of any other Mozambique deals that VTB was  
14 involved around the time of the EMATUM LPN?  
15 A Yes. Later in 2013, around November, my then-manager  
16 Philip Hamilton mentioned that there was a small loan that VTB  
17 arranged to one of the companies in Mozambique.  
18 MS. MOESER: Ms. DiNardo, you can take that down.  
19 Q And did you know anything else about that loan that VTB  
20 had arranged to a company in Mozambique?  
21 A I didn't know much about it.  
22 Q Did you know the name of it?  
23 A I think the name was Proindicus.  
24 Q Did you know how it was structured?  
25 A No.  

VB OCR CRR

Lvov - direct - Moeser 2658

1 Q Around this time, did you continue to trade the EMATUM  
2 LPN in the secondary market?  
3 A Yes.  
4 Q Did you learn anything else about the LPN around 2015?  
5 A 2015. I, I don't remember.  
6 Q At some point in time, did -- was there a proposed  
7 restructuring of the EMATUM LPN?  
8 A Yes.  
9 Q And about when was that?  
10 A 2016.  
11 MS. MOESER: Your Honor, I'd like to admit  
12 Government's Exhibits 2975 and 2976.  
13 THE COURT: Any objection?  
14 MR. SCHACHTER: May I see it briefly, Your Honor?  
15 THE COURT: Yes.  
16 '75 first. Any objection?  
17 MS. DONNELLY: None, Your Honor.  
18 THE COURT: Admitted.  
19 (Government's Exhibit 2975 received in evidence.)  
20 THE COURT: '76? Any objection?  
21 MR. SCHACHTER: No objection.  
22 THE COURT: Admitted.  
23 (Government's Exhibit 2976 received in evidence.)  
24 THE COURT: You may publish them.  
25 MS. MOESER: Mr. Lvov, showing you Government's  

VB OCR CRR

Lvov - direct - Moeser 2659

1 Exhibit 2975.  
2 (Exhibit published.)  
3 Q What's Government's Exhibit 2975?  
4 A This is an e-mail.  
5 Q Who sent this e-mail?  
6 A Myself.  
7 Q What e-mail address did you use?  
8 A Bloomberg.  
9 Q And what day was it on?  
10 A March 9, 2016.  
11 MS. MOESER: And, Ms. DiNardo, if we can sort of  
12 slowly scroll through the first three pages of addresses.  
13 Okay, you can stop there.  
14 Q Mr. Lvov, who did you send this e-mail to?  
15 A To my full client list.  
16 Q And what did you attach to the e-mail?  
17 A I attached Mozambique Exchange Offer and Consent  
18 Solicitation Memorandum.  
19 Q What's the Exchange Offer and Consent Solicitation  
20 Memorandum?  
21 A It's a document similar to the offering circular that  
22 contains terms and conditions of a proposed transaction. In  
23 this particular case, the exchange offering.  
24 Q What was the exchange?  
25 A The exchange, the proposed exchange was to take out the  

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Lvov - direct - Moeser 2660

1 EMATUM LPN at a certain price and a certain ratio and  
2 substitute it with a direct obligation of the Government of  
3 Mozambique in the form of a Eurobond.  
4 Q What's a Eurobond?  
5 A It's a dollar-denominated bond issued outside of the  
6 United States.  
7 Q And at the bottom here, the last sentence says: At  
8 IMF/WB in D.C., April 14th through 16.  
9 What does that mean?  
10 A This is called a green line. It's a header that we use  
11 on Bloomberg. It's type of a signature.  
12 Q Were you going to be somewhere April 14th through 16th?  
13 A I was going to be at IMF, yes.  
14 Q And what does WB stand for?  
15 A World Bank.  
16 MS. MOESER: Showing you Government's Exhibit 2976.  
17 (Exhibit published.)  
18 Q What's Government's Exhibit 2976, Mr. Lvov?  
19 A Can I see the full page, please?  
20 MS. MOESER: Can you show the third page,  
21 Ms. DiNardo.  
22 (Exhibit published.)  
23 A This is the exchange offer circular.  
24 Q That you attached to the previous e-mail that we saw?  
25 A Correct.

VB OCR CRR

Lvov - direct - Moeser 2661

1 MS. MOESER: And if we can go to the second page,  
2 Ms. DiNardo.  
3 (Exhibit published.)  
4 MS. MOESER: The bold section.  
5 Q Mr. Lvov, you previously told the jury about a Reg S.  
6 offering.  
7 What was the structure of the exchange instrument  
8 going to be?  
9 A The structure of the new notes was proposed as a issue  
10 under the Rule 144A and Reg S.  
11 Q What's 144A?  
12 A Rule 144A is a form of registration of a security issued  
13 by a non-U.S.-domiciled entity that allows U.S. persons to  
14 buy.  
15 Q And what was VTB's role in the exchange?  
16 A VTB was a joint lead manager of the exchange.  
17 MS. MOESER: You can take that down, Ms. DiNardo.  
18 Q In addition to the information that VTB gave to its  
19 clients through the exchange offering memorandum, did VTB  
20 arrange meetings with its clients about the exchange?  
21 A Yes.  
22 Q Where were those meetings?  
23 A In -- one day was in New York.  
24 Q Did you attend those meetings?  
25 A No.

VB OCR CRR

Lvov - direct - Moeser 2662

1 Q Did your clients attend those meetings?  
2 A Yes.  
3 Q Do you know if anyone else attended those meetings from  
4 Mozambique?  
5 A Yes.  
6 THE COURT: Who?  
7 THE WITNESS: I don't remember the names, but they  
8 were representatives of the Government of Mozambique.  
9 THE COURT: Go ahead.  
10 MS. MOESER: Your Honor, at this time I'd like to  
11 admit Government's Exhibit 2977.  
12 THE COURT: Any objection?  
13 MR. SCHACHTER: May I see it briefly, Your Honor?  
14 THE COURT: Yes.  
15 MR. SCHACHTER: No objection.  
16 THE COURT: Admitted. You may publish.  
17 (Government's Exhibit 2977 received in evidence.)  
18 (Exhibit published.)  
19 Q Mr. Lvov, what's Government's Exhibit 2977?  
20 A This is a printout of a IB Bloomberg chat.  
21 MS. MOESER: Ms. DiNardo, can we go to page 4.  
22 (Exhibit published.)  
23 MS. MOESER: And can we go down to the bottom half  
24 of the page.  
25 Q Mr. Lvov, looking at the message that has George

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Lvov - direct - Moeser 2663

1 Niedringhaus's address on top. You can review this.  
2 And tell us more about the meetings that you set up  
3 with your clients, for your clients.  
4 A This is a schedule of meetings that were set up with  
5 clients based in New York metropolitan area, namely Marathon,  
6 EMSO, NWI, Alliance Bernstein, Stone Harbor, Goldman Sachs  
7 Asset Management, with Prudential pending.  
8 Q And were your clients holding the EMATUM LPN at this  
9 time?  
10 A Yes.  
11 Q How much, roughly, were your clients holding, if you  
12 remember?  
13 A I don't remember.  
14 Q Looking down at your message below Mr. Niedringhaus's  
15 message, can you tell the jury what that means?  
16 A In this particular line it indicates that Prudential has  
17 communicated to us that they own more than \$20 million worth  
18 of EMATUM LPN.  
19 Q And I don't think we've mentioned Stone Harbor.  
20 What is Stone Harbor?  
21 A Stone Harbor is a fund manager based in New York.  
22 Q Did the exchange go through, Mr. Lvov?  
23 A It did.  
24 Q After the exchange, did you attend meetings at the IMF?  
25 A I did.

VB OCR CRR

Lvov - direct - Moeser 2664

1 Q Did information come into the marketplace regarding the  
2 IMF and Mozambique at that time?  
3 MR. SCHACHTER: Objection.  
4 THE COURT: Overruled.  
5 If you know.  
6 THE WITNESS: Can you repeat the question?  
7 THE COURT: Read it back.  
8 (The requested portion of the record was read back  
9 by the Official Court Reporter.)  
10 A Yes. There was an article published --  
11 Q Mr. Lvov, let me ask you a follow-up question briefly.  
12 Was the price of the EMATUM -- of the Mozambique  
13 bond affected by information in the marketplace at the time?  
14 A Yes.  
15 Q What was the information in the marketplace?  
16 MR. SCHACHTER: Your Honor, objection.  
17 THE COURT: Overruled.  
18 MR. SCHACHTER: Your Honor --  
19 THE COURT: Overruled.  
20 A The information in Wall Street Journal had a negative  
21 impact on the price of the new -- newly-issued bond.  
22 Q Did your clients reach out to you at this time?  
23 A Yes.  
24 Q Did your client -- what kind of concerns did your clients  
25 raise?

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Lvov - direct - Moeser 2665

1 MR. SCHACHTER: Objection.  
2 THE COURT: Overruled.  
3 A They were concerned that there was information that was  
4 missing or misrepresented to them about the total indebtedness  
5 of Mozambique.  
6 Q Did you review the exchange offering memorandum to assess  
7 the representations about Mozambique's total indebtedness?  
8 A Yes.  
9 Q What did you determine?  
10 MR. SCHACHTER: Objection.  
11 THE COURT: Overruled.  
12 A We've asked the syndicate desk and we checked the  
13 memorandum and the numbers that we checked in the offering  
14 circular were consistent with the numbers that were in the  
15 article being correct.  
16 Q The numbers in the memorandum represented total debt for  
17 Mozambique?  
18 A Yes.  
19 Q Did the exchange offering memorandum disclose the  
20 Proindicus loan by name?  
21 A It didn't.  
22 Q Were you aware of a loan called MAM?  
23 A No.  
24 Q Was a loan called MAM disclosed by name in the exchange  
25 offering memorandum?

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Lvov - direct - Moeser 2666

1 A I don't remember.  
2 Q Mr. Lvov, if VTB had known that the contractor on EMATUM  
3 Privinvest had paid Credit Suisse bankers millions of dollars,  
4 would VTB have done the EMATUM LPN?  
5 MR. SCHACHTER: Objection.  
6 THE COURT: Overruled.  
7 A No.  
8 Q Would VTB -- if VTB had known that the contractor on  
9 EMATUM had paid Credit Suisse bankers millions of dollars,  
10 would VTB have done the exchange?  
11 MR. SCHACHTER: Objection.  
12 THE COURT: Overruled.  
13 A No.  
14 Q If VTB had had that information, would it have offered  
15 the EMATUM LPN to third-parties?  
16 MR. SCHACHTER: Objection.  
17 THE COURT: Overruled.  
18 A No.  
19 Q And would it have offered the exchange to third-parties?  
20 MR. SCHACHTER: Objection.  
21 THE COURT: Overruled.  
22 A No.  
23 MS. MOESER: May I have a moment, Your Honor?  
24 THE COURT: You may.  
25 (Pause in the proceedings.)

VB OCR CRR

Lvov - cross - Schachter 2667

1 MS. MOESER: Nothing further, Your Honor.  
2 THE COURT: Your Honor, witness.  
3 CROSS-EXAMINATION  
4 BY MR. SCHACHTER:  
5 MR. SCHACHTER: Good morning.  
6 THE JURY: Good morning.  
7 Q And good morning, Mr. Lvov.  
8 A Good morning.  
9 Q Ms. Moeser asked you about the EMATUM LPN offering and  
10 the fact that it was a Reg S. issuance.  
11 Do you recall that?  
12 A Yes.  
13 Q And you said that Reg S. is an exemption for securities  
14 that are issued, placed and traded by non-U.S. persons.  
15 Do you recall saying that?  
16 A Yes.  
17 Q And I'd just like you to explain that to the jury.  
18 When you say an exemption, that it's an exemption,  
19 can you explain to them; it's an exemption from what?  
20 A It's an exemption from not having to register the  
21 security with SEC.  
22 Q And do you have an understanding as to why that kind of  
23 security doesn't need to be registered with the United States  
24 Securities and Exchange Commission?  
25 A My understanding is that it's a security that's issued

VB OCR CRR

1 overseas in U.S. dollars; and hence, it's exempt from  
 2 registration.  
 3 Q And can you explain what you meant when you said that  
 4 Reg. S Securities are securities that are issued, placed and  
 5 traded by non-U.S. persons?  
 6 Can you just explain that?  
 7 A What it means is that the funds used to purchase these  
 8 securities are physically outside the United States.  
 9 Q And those funds are held by what kind of entity?  
 10 A Traditionally, either a, an individual or a legal entity.  
 11 Q So, it's that individual -- when you say it's -- the  
 12 funds are outside of the United States, you mean that it's,  
 13 those funds are held by either an individual or an entity that  
 14 exists outside of the United States.  
 15 A Yes.  
 16 Q Now, you said that your clients are U.S.-based money  
 17 managers.  
 18 A Correct.  
 19 Q And is it correct that a money manager is a business that  
 20 provides investment advice and makes investment decisions for  
 21 those separate entities or individuals that, in some cases,  
 22 may exist outside of the United States?  
 23 A That's correct.  
 24 Q And so, even though the investment manager, the money  
 25 manager, may be providing advice or making a decision, the

VB OCR CRR

1 CROSS-EXAMINATION CONTINUING  
 2 BY MR. SCHACHTER:  
 3 Q And for managing the money of those corporate entities  
 4 that exist outside of the United States, do money managers  
 5 receive a fee?  
 6 A Yes.  
 7 Q Do you happen to know if there is something called 2 in  
 8 '20?  
 9 A I've heard the term before, but I'm not on that side of  
 10 the business.  
 11 Q Okay, fair enough.  
 12 And just to be clear, sometimes money managers can  
 13 manage corporate entities that exist inside the United States,  
 14 is that right?  
 15 A Manage their money, yes.  
 16 Q And sometimes they will manage corporate entities, the  
 17 money of corporate entities that exist outside of the United  
 18 States?  
 19 A Correct.  
 20 Q And since you talked about -- you talked about the term  
 21 with respect to Reg S offerings as being involving non-U.S.  
 22 persons.  
 23 Do you remember using that word?  
 24 A Yes.  
 25 Q And so, do you understand that a money manager that may

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1 actual purchaser of the security in a Reg S. context would be  
 2 the individual or the entity that exists outside of the  
 3 United States; is that correct?  
 4 A Correct.

(Continued on following page.)

VB OCR CRR

1 be based in the United States, but that is managing funds  
 2 that's held by a -- a corporate entity that exists outside of  
 3 the United States, that that is called a non-U.S. person?  
 4 A Yes.  
 5 Q You talked about how you sent out the LPN offering  
 6 circular to your clients?  
 7 A Yes.  
 8 Q Or some of your clients, is that fair to say?  
 9 A Yes.  
 10 Q During that primary issuance of the EMATUM LPNs, you  
 11 could not sell those LPNs to any U.S. fund or U.S. entity that  
 12 is holding money, is that correct?  
 13 A Onshore, correct.  
 14 Q I believe that you said when Ms. Moeser was asking you  
 15 questions that you sent out that offering circular to clients  
 16 with, your words were, offshore capabilities.  
 17 Do you recall giving that testimony?  
 18 A Yes.  
 19 Q And maybe you explained it, but can you explain when use  
 20 the term "offshore capabilities," what are you referring to?  
 21 A I was referring to the -- such clients that have funds  
 22 that are not onshore in the United States, they're offshore.  
 23 Q Fair to say, you did not send the offering circular to  
 24 any U.S.-based money manager who you believed would be buying  
 25 it for a U.S. fund, is that correct?

SAM OCR RMR CRR RPR



1 A Yes.

2 MR. SCHACHTER: I'm not entirely sure if it's in

3 evidence, Your Honor. We'll offer Government Exhibit 222.

4 THE COURT: Any objection to 222?

5 MS. MOESER: May we see it, Your Honor?

6 THE COURT: I believe it is being published.

7 MS. MOESER: No objection, Your Honor.

8 THE COURT: It's admitted.

9 (Government's Exhibit 222 was received in evidence.)

10 THE COURT: You may publish.

11 (Exhibit published.)

12 BY MR. SCHACHTER:

13 Q This, Mr. Lvov, is what's called a subscription -- is a

14 subscription agreement, and I will direct your attention to

15 the --

16 MR. SCHACHTER: May I have just a moment, Your

17 Honor?

18 THE COURT: Of course.

19 (Pause.)

20 MR. SCHACHTER: To the page that identifies the

21 parties, Mr. McLeod. Maybe the second or third page in.

22 BY MR. SCHACHTER:

23 Q Do you see where it says that this is an agreement

24 between Mozambique EMATUM Finance 2020 B.V. and VTB Capital?

25 Do you see that?

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1 A Yes.

2 Q And I think you described earlier that VTB Capital was

3 what's called a manager for the issuance of the loan

4 participation notes; is that right?

5 A Yes.

6 Q And did you know that the issuer was this Dutch company

7 called Mozambique EMATUM Finance 2020 B.V.?

8 A Yes.

9 MR. SCHACHTER: And, Mr. McLeod, can we turn to the

10 fifteenth page?

11 (Exhibit published.)

12 MR. SCHACHTER: And specifically, the section on --

13 yes, thank you.

14 BY MR. SCHACHTER:

15 Q Do you see where there is a section of this agreement

16 that VTB Capital entered into entitled "Selling Restrictions"?

17 A Not yet.

18 MR. SCHACHTER: Can you blow up the top half?

19 (Exhibit published.)

20 A Yes, I see it.

21 Q And I'd just like to direct your attention to the middle

22 of that page.

23 Do you see where it talks about limitations on

24 directed selling efforts, and then it goes on to say that the

25 issuer reasonably believes that there is no substantial U.S.

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1 market interest in its debt securities; do you see that?

2 A Yes.

3 Q And is that consistent with the restrictions that come

4 with the issuance of Reg S securities as you understand them?

5 A As I understand it, yes.

6 MR. SCHACHTER: You can take that down, Mr. McLeod.

7 BY MR. SCHACHTER:

8 Q Now, Ms. Moeser -- I am just going to show you a few of

9 the e-mails that Ms. Moeser showed you.

10 She showed you Government Exhibit 2477 in evidence.

11 MR. SCHACHTER: Can we publish that, Your Honor?

12 THE COURT: Of course.

13 (Exhibit published.)

14 BY MR. SCHACHTER:

15 Q And do you recall that this is the e-mail that you said

16 that you sent to Mr. Santamaria at Alliance Bernstein?

17 A Yes.

18 Q When you sent this in September of 2013 to this person at

19 Alliance Bernstein, did you understand that Alliance Bernstein

20 would be buying it for a U.S. fund or a foreign -- a foreign

21 fund?

22 A For a foreign fund.

23 Q And I also would like to show you --

24 MR. SCHACHTER: Your Honor, may we publish --

25 THE COURT: I'm sorry, what was the answer? I

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1 couldn't quite hear it.

2 THE WITNESS: For a foreign fund.

3 THE COURT: Thank you. Keep your voice up.

4 Go ahead.

5 MR. SCHACHTER: Thank you, Your Honor.

6 And may we also publish, Your Honor, Government

7 Exhibit 2482 in evidence?

8 THE COURT: Yes, you may.

9 (Exhibit published.)

10 BY MR. SCHACHTER:

11 Q Mr. Lvov, Ms. Moeser asked you also about this document.

12 This is an e-mail that you sent to Prudential.

13 Do you recall that?

14 A Yes.

15 Q And you, again, were sending the offering circular to

16 Prudential?

17 A Yes.

18 Q When you sent this document to Prudential, did you

19 understand that the actual purchaser of the Reg S LPNs would

20 be a U.S. fund or a foreign fund?

21 A Foreign fund.

22 MR. SCHACHTER: Your Honor, may we also publish

23 Government Exhibit 2490 in evidence?

24 THE COURT: You may.

25 (Exhibit published.)

SAM OCR RMR CRR RPR

1 BY MR. SCHACHTER:  
 2 Q And do you recall, Mr. Lvov, that Ms. Moeser showed you  
 3 this exhibit, which was an e-mail that you sent out to a list  
 4 of your clients in September of 2013?  
 5 A Yes.  
 6 MR. SCHACHTER: And, Mr. McLeod, can we just look at  
 7 it so we can see the substance at the end of the long list of  
 8 clients? That's great.  
 9 (Exhibit published.)  
 10 BY MR. SCHACHTER:  
 11 Q And, again, did you understand that the clients that you  
 12 were sending this e-mail to would be buying the LPNs for a  
 13 U.S. fund or for a foreign fund?  
 14 A For a foreign fund. At this point, this is an e-mail,  
 15 both the announcement of the transaction already launched and  
 16 completed.  
 17 THE COURT: Did you understand the question?  
 18 THE WITNESS: Yes.  
 19 THE COURT: What was the question?  
 20 THE WITNESS: (No response.)  
 21 THE COURT: Were you buying it for a U.S. fund or a  
 22 foreign fund? That's the question.  
 23 So what's the answer?  
 24 THE WITNESS: Yes.  
 25 THE COURT: Okay.

SAM OCR RMR CRR RPR

1 list of European money managers and U.S. money managers, each  
 2 of those managed foreign corporate entities that were buying  
 3 the LPNs, is that correct?  
 4 A Correct.  
 5 Q And, in fact, I believe that Ms. Moeser asked you  
 6 specifically about the reference to Lazard and it says, "37,  
 7 print 17 now, 20 more after seasoned."  
 8 Do you remember that?  
 9 A Yes.  
 10 Q And you testified that Lazard had communicated to us that  
 11 only 17 million worth of orders were eligible and the rest  
 12 were not eligible for this transaction.  
 13 Do you remember that?  
 14 A Yes.  
 15 Q And you also said that that remaining, the rest of it,  
 16 was not eligible because they did not fit the requirement.  
 17 Do you remember explaining that?  
 18 A Yes.  
 19 Q And I'd just like you to explain that a little bit  
 20 further, so we are all clear on that.  
 21 When you say that only 17 million was eligible and  
 22 the rest did not fit the requirement, can you just explain to  
 23 the jury what you meant by that?  
 24 A What I meant by that was that 17 million was the money  
 25 that they were managing for an offshore or foreign fund, as

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1 THE WITNESS: For a foreign fund.  
 2 MR. SCHACHTER: Thank you, Your Honor.  
 3 And then I'd also like to publish, Your Honor,  
 4 Government Exhibit 2489.  
 5 THE COURT: In evidence?  
 6 MR. SCHACHTER: In evidence, yes, Your Honor.  
 7 THE COURT: Yes, you may.  
 8 (Exhibit published.)  
 9 BY MR. SCHACHTER:  
 10 Q And, Mr. Lvov, do you remember this as an e-mail that --  
 11 this is an e-mail that was sent to you by one of your  
 12 colleagues at VTB that described -- well, in general terms,  
 13 can you just refresh us on what this described?  
 14 A This is an e-mail from Fernando Ortega summarizing the  
 15 indication of interest in the proposed transaction, EMATUM.  
 16 Q And it lists Europe and U.S.  
 17 Do you see that?  
 18 A Yes.  
 19 Q And that refers to the geographic location of the money  
 20 manager, is that correct?  
 21 A That's correct.  
 22 Q It is not referring to the geographical location of the  
 23 fund that would actually be buying the LPNs, is that correct?  
 24 A Correct.  
 25 Q And, in fact, each of these companies, both under the

SAM OCR RMR CRR RPR

1 you stated; and 20 million of interest was from onshore money  
 2 that did not qualify.  
 3 Q And did not qualify for --  
 4 A For the transaction.  
 5 THE COURT: Again, don't talk over each other.  
 6 MR. SCHACHTER: Yes, Your Honor.  
 7 THE COURT: Go ahead.  
 8 BY MR. SCHACHTER:  
 9 Q Now, there is also a mention on this list, I think  
 10 further down, to something called ICE.  
 11 A Yes.  
 12 Q You wrote: "Waiting to hear from the U.S. ICE."  
 13 Do you see that?  
 14 A Yes.  
 15 Q And the fact that -- the reference to U.S., that's  
 16 because ICE Canyon, the money manager, is located in Los  
 17 Angeles, is that correct?  
 18 A Correct.  
 19 Q I am going to show you Government Exhibit 3213 --  
 20 MR. SCHACHTER: We'll offer Government  
 21 Exhibit 3213-B, if it's not in evidence already.  
 22 THE COURT: Any objection?  
 23 MS. MOESER: It's in evidence, Your Honor.  
 24 THE COURT: So, no objection.  
 25 You may publish.

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2680

1 (Exhibit published.)

2 MR. SCHACHTER: I'm sorry. Withdrawn.

3 BY MR. SCHACHTER:

4 Q Sir, did you happen to know that ICE Canyon was advising

5 an Irish entity that would actually be doing the purchasing of

6 the LPNs?

7 A No, I did not.

8 Q All right.

9 MR. SCHACHTER: Let's turn then back to Government

10 Exhibit 3213-B in evidence.

11 If I may publish?

12 (Exhibit published.)

13 BY MR. SCHACHTER:

14 Q In any event, whether you knew that ICE Canyon was

15 advising an entity based in Ireland or some other country, you

16 did understand that ICE Canyon would be buying the LPNs for

17 some foreign fund, is that correct?

18 A Correct.

19 Q And this is -- in this list of -- this list that

20 Ms. Moeser asked you about, none of these buyers were buying

21 the LPNs for a U.S. fund, these are all for foreign funds; is

22 that correct?

23 THE COURT: Just to be clear, the list that you are

24 talking about is Government Exhibit 3213-B?

25 MR. SCHACHTER: Yes, Your Honor, thank you.

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2681

1 THE COURT: Because you didn't have it easily

2 accessible.

3 Go ahead.

4 A Correct.

5 Q Now, you talked a little bit about the concept of

6 seasoning.

7 Do you remember that?

8 A Yes.

9 Q And you explained, I believe, that a U.S. entity could

10 buy the LPNs after the passage of 40 days from the original

11 issuance of the LPNs. Is that right?

12 A Yes.

13 Q In this circumstance, do you recall that the LPN offering

14 was fully subscribed within a few days of VTB's involvement?

15 A Yes.

16 Q And can you just explain to the jury what that means?

17 A The suggested amount of the tap was 350 million, and

18 350 million of LPNs was issued.

19 Q So -- so that means that from the primary issuance, the

20 Reg S offering that can only be sold to foreign funds, that

21 was pretty much completed within a few days of the issuance;

22 is that right?

23 A Correct.

24 Q So, to the extent that a U.S. fund could be buying these

25 LPNs after the passage of 40 days, those U.S. funds would be

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2682

1 buying in what you described as the secondary market, is that

2 correct?

3 A Correct.

4 Q And so, that would be a circumstance where one of the

5 foreign funds that bought the LPNs, they can do whatever --

6 they can sell them if they want to, is that right?

7 A Yes.

8 Q They can go out and they can sell them to other foreign

9 entities, is that correct?

10 A Yes.

11 Q But they can also, after the passage of 40 days, they can

12 go out and they can sell them to a U.S. fund if that foreign

13 fund wants to, is that correct?

14 A Correct.

15 Q And in those circumstance, the way the money passes is

16 that the buyer, that U.S. fund, is paying that foreign fund

17 for the LPN in that secondary market transaction, is that

18 correct?

19 A Through a broker, yes.

20 Q That money would not -- unless VTB was acting as the

21 broker, none of that money would go to VTB, right?

22 A Correct.

23 Q And when those secondary market trades happened, that

24 money doesn't go to EMATUM?

25 A Correct.

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2683

1 Q And certainly, it doesn't go to Privinvest or Jean

2 Boustani, fair to say?

3 A I don't know.

4 Q Fair enough.

5 Now, we don't need to look at it again, but I think

6 Ms. Moeser showed you that language on the front cover of the

7 offering circular that said, I am paraphrasing, but it says it

8 can't be sold to -- it can only be sold to non-U.S. persons.

9 Do you remember that?

10 A Yes.

11 Q It's in bold and all caps on the first page?

12 A Yes.

13 Q Do you recall that it doesn't say anything about the fact

14 that it could be that in the secondary market, that some U.S.

15 fund could buy the LPNs from some foreign fund?

16 Do you remember it saying anything like that on the

17 front cover of the offering circular?

18 A I don't remember it saying anything like that.

19 THE COURT: Why don't you show it to the witness, in

20 fairness to the witness, and so the jury can see what you're

21 talking about as well?

22 MR. SCHACHTER: Yes, Your Honor. I think this is

23 215. This is Government Exhibit 215, Your Honor.

24 (Exhibit published.)

25 ///

SAM OCR RMR CRR RPR

1 BY MR. SCHACHTER:  
 2 Q And is this the language you recall talking about how it  
 3 may not be offered or sold within the United States?  
 4 A Yes.  
 5 Q Okay. And does this -- does this say anything about the  
 6 fact that there could be secondary market trades after the  
 7 issuance in which some foreign fund may sell the LPNs to some  
 8 U.S. fund?  
 9 A It doesn't say it right here.  
 10 Q And fair to say -- you know that that can happen because  
 11 you have a lot of experience in the securities markets; fair  
 12 to say?  
 13 A Yes.  
 14 Q And, sir, you never called up a man named Jean Boustani  
 15 and explained to him that there is something called a  
 16 secondary market where a U.S. fund could, after the issuance,  
 17 theoretically buy LPNs from a foreign fund; you didn't have  
 18 such a conversation, did you?  
 19 A I don't know Jean Boustani.  
 20 Q You've never spoken to Jean Boustani?  
 21 A No.  
 22 MR. SCHACHTER: You can take that down, Mr. McLeod.  
 23 BY MR. SCHACHTER:  
 24 Q Ms. Moeser also showed you Government Exhibit 2480 in  
 25 evidence.

SAM OCR RMR CRR RPR

1 Q Does that -- do you remember that, in fact, the credit  
 2 rating agencies did not rate in any way the company EMATUM's  
 3 ability to generate revenue?  
 4 A I don't remember.  
 5 Q But this particular rating, that certainly doesn't offer  
 6 any guidance as to whether EMATUM is going to make money or  
 7 not, is that correct?  
 8 A Correct.  
 9 Q Here, Moody's is saying, Look, all we know, all we can  
 10 speak about is the guarantee of the Republic of Mozambique; is  
 11 that correct?  
 12 A Yes.  
 13 Q Now --  
 14 MR. SCHACHTER: You can take that down, Mr. McLeod.  
 15 BY MR. SCHACHTER:  
 16 Q -- you talked about when you're committed to a trade.  
 17 Do you remember Ms. Moeser asking you about that?  
 18 A Yes.  
 19 Q And fair to say you're not a lawyer?  
 20 A I'm not a lawyer.  
 21 Q Congratulations.  
 22 And you -- is it fair to say that you don't know  
 23 when you are legally liable to complete a trade?  
 24 MS. MOESER: Objection, Your Honor.  
 25 THE COURT: Overruled. If you know.

SAM OCR RMR CRR RPR

1 MR. SCHACHTER: May I publish that, Your Honor?  
 2 THE COURT: Yes, of course.  
 3 (Exhibit published.)  
 4 BY MR. SCHACHTER:  
 5 Q And I think that you described this as a report from  
 6 Moody's, which is a credit rating agency?  
 7 A Yes.  
 8 Q And from time to time you sent these credit rating  
 9 reports to your clients, is that correct?  
 10 A Yes.  
 11 Q And this is one of those things that investors may look  
 12 at before they start to buy securities like the LPNs, is that  
 13 correct?  
 14 A Correct.  
 15 Q And I just want to direct -- and this one is entitled  
 16 "Moody's Assigns B1 Rating to Loan Participation Notes."  
 17 Do you see that?  
 18 A Yes.  
 19 Q And then under the "Rationale," right in the third  
 20 paragraph of this document, do you see where it explains that  
 21 the B1 rating of the notes relies solely and exclusively on  
 22 the unconditional and irrevocable guarantee that the Republic  
 23 of Mozambique has given to all payments?  
 24 Do you see that?  
 25 A Yes, I see it.

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1 A In my practice, in the market, when we complete a trade  
 2 over the phone or by e-mail and we complete it with specific  
 3 words like "done," "mine," "yours," these, to us, are  
 4 irrevocable obligations to complete the transaction.  
 5 Q I'm speaking about -- I understand that's in your  
 6 practice --  
 7 A Uh-hum.  
 8 Q -- but have -- but I'm asking you a different question,  
 9 which is: Do you have an understanding, as a legal matter,  
 10 when you are legally liable to complete a trade?  
 11 MS. MOESER: Objection, Your Honor.  
 12 THE COURT: He's asking for his understanding.  
 13 You can give your understanding.  
 14 A I'm not a lawyer. I don't have an opinion on -- on this.  
 15 Q And is it correct that there is a piece of the trade  
 16 where you have your interactions with your customer, and then  
 17 there is also something called settlement; is that correct?  
 18 A Correct.  
 19 Q And do you happen to recall that in connection with the  
 20 LPNs, that settlement occurs at an entity called Euroclear or  
 21 Clearstream?  
 22 A Yes.  
 23 Q And those are what are called depositories, is that  
 24 correct?  
 25 A Yes.

SAM OCR RMR CRR RPR

1 Q And do you know that they both exist outside of the  
 2 United States?  
 3 A Correct.  
 4 Q And do you know, do you have an understanding that that  
 5 depository is an entity that receives both the money that's  
 6 being used to purchase the security, as well as the -- it also  
 7 then possesses the security, itself; is that correct?  
 8 A Correct.  
 9 Q And it is at that moment where the exchange then occurs  
 10 between money and security, is that correct?  
 11 A That's correct.  
 12 Q Now, you talked about when you say "done" either verbally  
 13 or typing it on your Bloomberg terminal, is that correct?  
 14 A Correct.  
 15 Q Is it correct that sometimes it will happen that a trade  
 16 is canceled even after the time has come when both of you said  
 17 "done"?  
 18 A Yes.  
 19 Q Sometimes a customer may ask you to cancel the trade, and  
 20 in some circumstances you have agreed to do so; is that  
 21 correct?  
 22 A Correct.  
 23 Q And there's also something called unwinding a trade;  
 24 isn't that correct?  
 25 A Correct.

SAM OCR RMR CRR RPR

1 Q And sometimes even after both sides have said "done," a  
 2 trade can be unwound, is that correct?  
 3 A Correct.  
 4 Q I am going to show you --  
 5 MR. SCHACHTER: Your Honor, we'll offer Defense  
 6 Exhibit 5684.  
 7 THE COURT: Any objection to DX-5684?  
 8 MS. MOESER: If I may see it?  
 9 THE COURT: You may.  
 10 MS. MOESER: No objection, Your Honor.  
 11 THE COURT: Admitted.  
 12 (Defense Exhibit 5684 was received in evidence.)  
 13 THE COURT: You may publish.  
 14 (Exhibit published.)  
 15 MR. SCHACHTER: Mr. McLeod, there is a reference to  
 16 canceling, which I believe is on page 1.  
 17 May I have just a moment?  
 18 THE COURT: You may.  
 19 (Pause.)  
 20 MR. SCHACHTER: On the first page, Mr. McLeod, on  
 21 DX-5684, there is a lengthy description by Mr. Lvov. It's a  
 22 longer communication.  
 23 BY MR. SCHACHTER:  
 24 Q And do you see there's a reference here to an FX price  
 25 and then there is a reference to canceling -- canceling?

SAM OCR RMR CRR RPR

1 Do you see that?  
 2 A Yes.  
 3 Q All right.  
 4 MR. SCHACHTER: And then if we can put up,  
 5 Mr. McLeod -- actually, we'll offer Defense Exhibit 5585.  
 6 THE COURT: Any objection to DX-5585?  
 7 MS. MOESER: If we can get a copy, Your Honor.  
 8 THE COURT: I believe you have it electronically.  
 9 MS. MOESER: No objection, Your Honor.  
 10 THE COURT: Admitted.  
 11 (Defense Exhibit 5585 was received in evidence.)  
 12 THE COURT: You may publish.  
 13 MR. SCHACHTER: Thank you, Your Honor.  
 14 (Exhibit published.)  
 15 BY MR. SCHACHTER:  
 16 Q And, Mr. Lvov, do you see this is an e-mail from you on  
 17 August 19, 2016?  
 18 A Yes.  
 19 Q And there's a reference to UBS and unwinding the trade.  
 20 Do you see that?  
 21 A Yes, I do.  
 22 Q And it actually says: "Was unable to settle original  
 23 RUS 26 transaction because of absence of service at  
 24 Clearstream."  
 25 Do you see that that?

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1 A Yes.  
 2 Q And Clearstream, that's the -- one of the depositories  
 3 that we were talking about that operated in the LPN  
 4 transaction as well, is that correct?  
 5 A Correct.  
 6 THE COURT: How much longer do you have with this  
 7 witness?  
 8 MR. SCHACHTER: Your Honor, my estimate is -- oh,  
 9 I'm sorry, I think, Your Honor, about -- less than 15 minutes.  
 10 THE COURT: Well, why don't we take our comfort  
 11 break now, and then we will come back for the less than  
 12 15 minutes.  
 13 Do not talk about the case.  
 14 Do not talk to anyone about your testimony.  
 15 (Jury exits.)  
 16 THE COURT: You may step down, thank you.  
 17 (Witness steps down.)  
 18 THE COURT: You may be seated, ladies and gentlemen,  
 19 and the public. The jury has left the room. The witness is  
 20 leaving the room.  
 21 Do we have any procedural issues to discuss during  
 22 the break in the presence of the defendant and after the  
 23 presence of the jury?  
 24 MR. SCHACHTER: None for the defense, Your Honor.  
 25 MR. BINI: Not for the Government, Your Honor.

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2692

1 THE COURT: All right, thanks. Enjoy your break and  
 2 we will resume in 15 minutes.  
 3 (Defendant exited the courtroom.)  
 4 (Judge WILLIAM F. KUNTZ, II exited the courtroom.)  
 5 (Recess taken.)  
 6 (In open court - jury not present.)  
 7 THE COURTROOM DEPUTY: All rise.  
 8 (Judge WILLIAM F. KUNTZ, II entered the courtroom.)  
 9 THE COURTROOM DEPUTY: Judge Kuntz presiding.  
 10 THE COURT: You may be seated. I see we have all  
 11 appearances. The defendant is being produced.  
 12 Do we have any issues, before we bring the witness  
 13 back in and before we bring the jury in, to discuss?  
 14 MR. BINI: Not for the Government.  
 15 THE COURT: From the defense?  
 16 MR. SCHACHTER: No, Your Honor.  
 17 THE COURT: Okay. Thank you.  
 18 MR. SCHACHTER: Thank you.  
 19 THE COURT: Let me have the witness come back.  
 20 Mr. Jackson, would you? And we will have the  
 21 defendant come out.  
 22 Please come back to the stand, sir.  
 23 (Witness enters the courtroom and resumes the  
 24 stand.)  
 25 THE COURT: You can remain standing until they come

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2693

1 back.  
 2 THE WITNESS: All right.  
 3 (Pause.)  
 4 (Defendant entered courtroom.)  
 5 THE COURT: Welcome back, sir.  
 6 THE DEFENDANT: Thank you.  
 7 THE COURT: Defendant has just been produced and we  
 8 are now going to bring in the jury.  
 9 (Pause.)  
 10 (Jury enters.)  
 11 THE COURT: Thank you, ladies and gentlemen of the  
 12 jury. We really appreciate your promptness.  
 13 Please be seated. We are going to continue with the  
 14 examination.  
 15 Please have a seat, sir, and I will ask you, as I  
 16 said I would, did you speak with anyone about your testimony  
 17 during the break?  
 18 THE WITNESS: No.  
 19 THE COURT: Thank you, please continue.  
 20 MR. SCHACHTER: Thank you, Your Honor.  
 21 EXAMINATION CONTINUING  
 22 BY MR. SCHACHTER:  
 23 Q Mr. Lvov, when an investor bought the loan participation  
 24 notes, that investor was buying the right to be repaid the  
 25 principal and interest from that loan, is that correct?

SAM OCR RMR CRR RPR

Lvov - cross - Schachter 2694

1 A Correct.  
 2 Q And the loan participation notes were issued in September  
 3 and October of 2013, is that correct?  
 4 A Correct.  
 5 Q And then in April of 2016, the Mozambican Government  
 6 exchanged the loan participation notes for a different kind of  
 7 instrument called a eurobond, is that correct?  
 8 A Correct.  
 9 Q And at that point in time, once that exchange happened,  
 10 the loan participation notes ceased to exist?  
 11 A Correct.  
 12  
 13 (Continued on the following page.)  
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 15  
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SAM OCR RMR CRR RPR

Lvov - redirect - Moeser 2695

1 BY MR. SCHACHTER: (Continuing.)  
 2 Q They were gone?  
 3 A Correct.  
 4 Q So they only existed -- the loan participation notes only  
 5 existed between September and October of 2013 and April of  
 6 2016; is that correct?  
 7 A Yes.  
 8 Q Am I correct that from the time that they were first  
 9 issued in 2013 up until the time that they were exchanged for  
 10 Eurobonds in 2016, that EMATUM made each and every one of the  
 11 interest and principal payments required under the loan?  
 12 A I don't remember.  
 13 Q Do you recall that at the time of the exchange that there  
 14 had been no default of the EMATUM loan participation notes?  
 15 A That information, I don't recall.  
 16 MR. SCHACHTER: I have no further questions.  
 17 THE COURT: Your witness.  
 18 MS. MOESER: Briefly, Your Honor.  
 19 THE COURT: I hope so.  
 20 REDIRECT EXAMINATION  
 21 BY MS. MOESER:  
 22 MS. MOESER: Ms. DiNardo, if we can bring up  
 23 Government Exhibit 222 in evidence.  
 24 (Exhibit published.)  
 25 BY MS. MOESER:

SN OCR RPR

Lvov - redirect - Moeser 2696

1 Q Mr. Lvov, defense counsel asked you some questions about  
2 this document. What is this document?  
3 A This reads, Subscription Agreement.  
4 MS. MOESER: And can we go to the last page,  
5 Ms. DiNardo?  
6 Q And who signed on behalf of VTB Capital?  
7 A It reads Sean Tiwari.  
8 Q And can you read the signature on the left?  
9 A It's illegible, but I think it says, M-A-B-B-O-O-D.  
10 Q Do you know anyone with initial shuns with initials M,  
11 A-B-B-O-O-D?  
12 A Mackram Abboud.  
13 Q Who is Mackram Abboud?  
14 A He's a banker for VTB Capital.  
15 MS. MOESER: Can we go to page seven of the  
16 document, Ms. DiNardo? Can you blow up the middle section,  
17 Offering Circular?  
18 BY MS. MOESER:  
19 Q Mr. Lvov, can you review this section and summarize for  
20 the jury what this sets out?  
21 A (Reviewing.)  
22 Q Have you had a minute to review, Mr. Lvov? I can ask you  
23 a few questions about this. Is this a representation that the  
24 offering circular contains all information in relation to the  
25 issuer which is material?

SN OCR RPR

Lvov - redirect - Moeser 2697

1 MR. SCHACHTER: Objection.  
2 THE COURT: Sustained.  
3 Look. The jury can read it. If you want him to  
4 read it out loud to the jury and waste their time, you can do  
5 that but the jury can read it. It is in evidence. It's the  
6 offering circular.  
7 Is there anything you want to ask him that is a  
8 summary-type question?  
9 MS. MOESER: We can move forward, Your Honor.  
10 THE COURT: That would be nice.  
11 MS. MOESER: Briefly, Ms. DiNardo, if we can pull up  
12 Government Exhibit 2482.  
13 (Exhibit published.)  
14 BY MS. MOESER:  
15 Q And what did you send to Mr. Petersen in Government  
16 Exhibit 2482, Mr. Lvov?  
17 A I sent him the offering circular on the original EMATUM  
18 transaction, two Moody reports and the teaser.  
19 Q Where did Mr. Petersen work?  
20 A Prudential.  
21 MS. MOESER: Can we go Government Exhibit 3213-A.  
22 (Exhibit published.)  
23 THE COURT: You have B on the screen. Please put A  
24 up.  
25 (Exhibit published.)

SN OCR RPR

Lvov - redirect - Moeser 2698

1 BY MS. MOESER:  
2 Q And what is this spreadsheet, Mr. Lvov?  
3 A This is a spreadsheet of a secondary trading blotter.  
4 Q Is Prudential one of the entities that you did secondary  
5 trading in the EMATUM LPN with?  
6 A Yes.  
7 MS. MOESER: And if we could switch just briefly to  
8 the ELMO, Mr. Jackson?  
9 (Exhibit published.)  
10 Q This is Defense Exhibit 5585 that you were shown before,  
11 Mr. Lvov. Defense counsel asked you some questions about  
12 whether or not a trade had been unwound. Did that have  
13 anything to do with the EMATUM LPNs?  
14 A No.  
15 (Exhibit published.)  
16 Q This is Defendant's Exhibit 5684. Dense counsel asked  
17 you some questions about a trade being cancelled. Did that  
18 have anything to do with the EMATUM LPNs?  
19 A No.  
20 MS. MOESER: And if we can go back to the computer,  
21 Mr. Jackson.  
22 And if we can go to 3213-B?  
23 (Exhibit published.)  
24 BY MS. MOESER:  
25 Q Mr. Lvov, what was 321-B?

SN OCR RPR

Lvov - redirect - Moeser 2699

1 A This is the primary -- the summary of a primary order  
2 book.  
3 Q And did you conduct all of these trades from New York?  
4 A Yes.  
5 Q When were you committed to these trades?  
6 A At the time when the order was placed.  
7 Q And did any of these trades -- were any of these trades  
8 revoked?  
9 A No.  
10 MS. MOESER: Nothing further, Your Honor.  
11 THE COURT: Thank you, you may step down, sir. You  
12 are done. Thank you.  
13 (Witness excused.)  
14 THE COURT: Please call your next witness.  
15 MS. MOESER: Your Honor, the Government calls Daniel  
16 Jurkowitz.  
17 THE COURT: Please come forward and be sworn by my  
18 court deputy.  
19 THE COURTROOM DEPUTY: Please raise your right hand,  
20 sir.  
21 (Witness sworn/affirmed.)  
22 THE COURT: Please be seated, sir. I'm going to ask  
23 you to pull the microphone in front of you, close to you. It  
24 swivels. State and spell your name and then counsel will have  
25 some questions.

SN OCR RPR

Lvov - redirect - Moeser 2700

1 THE WITNESS: Dan Jurkowitz, J-U-R-K-O-W-I-T-Z.  
 2 THE COURT: Thank. Counsel, you may inquire.  
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SN OCR RPR

Jurkowitz - direct - Moeser 2702

1 A An emerging market is typically one of the non -- I would  
 2 say, like, very developed countries. So, countries in Latin  
 3 America, countries in the middle east, Africa, central eastern  
 4 Europe and parts of Asia.  
 5 Q How long have you worked in the financial services  
 6 industry?  
 7 A Since 1990. So, what is that, 29 years.  
 8 Q Have you had a specialty during that period of time?  
 9 A Nearly all of it was sales and trading of debt  
 10 instruments in the emerging markets.  
 11 Q And focusing on your time at Credit Suisse, how did a  
 12 project come to your attention?  
 13 A A project would come to our attention via the syndicate  
 14 desk.  
 15 Q What's the syndicate desk?  
 16 A The syndicate desk is an intermediary between investment  
 17 bankers and sales and trading professionals.  
 18 Q What's the role of the investment bankers in a project in  
 19 general?  
 20 A Investment bankers will talk to corporations and  
 21 governments -- borrowers, so as borrowers of debt. And then  
 22 the investment bankers when they are working on a project or a  
 23 transaction, a deal, if you will, they will prepare  
 24 information to give to the syndicate desk and the syndicate  
 25 desk then talks to the trading -- the sales and trading teams

SN OCR RPR

Jurkowitz - direct - Moeser 2701

1 DANIEL JURKOWITZ,  
 2 called by the Government, having been  
 3 first duly sworn, was examined and testified  
 4 as follows:  
 5 DIRECT EXAMINATION  
 6 BY MS. MOESER:  
 7 Q Good afternoon. Excuse me.  
 8 A Good afternoon.  
 9 Q Good afternoon, Mr. Jurkowitz. Where do you work?  
 10 A BCP Securities.  
 11 Q How long who you worked at BCP Securities?  
 12 A A little over three years.  
 13 Q Where did you work before that?  
 14 A Credit Suisse.  
 15 Q What was your position at Credit Suisse?  
 16 A I worked with Aaron Tai as co-heads of the emerging  
 17 markets sales team in the U.S.  
 18 Q How long were you co-head of the emerging markets sales  
 19 team in the U.S.?  
 20 A We held that position roughly four years.  
 21 Q From which years to which years?  
 22 A Approximately 2012 to 2016.  
 23 Q Did you have a specialty when you were at Credit Suisse?  
 24 A Emerging markets fixed income; so, debt.  
 25 Q And what's an emerging market?

SN OCR RPR

Jurkowitz - direct - Moeser 2703

1 and so I was on the sales and trading teams.  
 2 Q What does the sales and trading teams do?  
 3 A The sales and trading teams are responsible for talking  
 4 to end investors about bonds or loans that the investment  
 5 bankers will originate. So the sales and trading teams  
 6 actually have the points of contact with the investor base.  
 7 Q Who are your clients in parts of the sales and trading  
 8 team?  
 9 A The clients that I've always interacted with and covered  
 10 have been institutional clients, institutional investors.  
 11 Q Can you give the jury an example of an institutional  
 12 investor?  
 13 A Sure. Like a BlackRock or a Fidelity, MetLife Insurance,  
 14 Prudential Insurance; typically thought of as larger,  
 15 more-sophisticated investors.  
 16 Q Where are your clients located?  
 17 A Aaron Tai and I covered clients in the U.S. So our  
 18 clients were -- graphically were in the U.S.  
 19 Q And where were you located when you worked at Credit  
 20 Suisse?  
 21 A New York.  
 22 THE COURT: Let her finish before you answer.  
 23 Q Where were you?  
 24 A New York.  
 25 Q What kind of information would you send to your clients?

SN OCR RPR



Jurkowitz - direct - Moeser 2704

1 A We would send the information that the syndicate desk  
2 delivered to us which typically would be background  
3 information about the entity that was borrowing money in the  
4 bond market. So if it was a corporation or a sovereign, there  
5 would be financial information, there would be information  
6 describing the business or if it were a government describing  
7 kind of the economy of the Government. And then we would  
8 receive a package from the syndication department and we would  
9 deliver that to our investors.

10 Q Did you prepare any of the information?  
11 A No.

12 Q And you said you received the information from syndicate.  
13 At what stage of the deal does your team get involved?  
14 A So, the sales team gets involved once all the information  
15 is completed. The deal is completely baked, if you will,  
16 prepared, ready to go to market. So at -- the final stage is  
17 when the deal is communicated to the marketplace to investors  
18 and that's when we get involved.

19 Q And what sort of information is important to your clients  
20 when you're communicating a deal to the marketplace?  
21 A Our clients would want to know kind of detailed  
22 information about the borrower's business, what the borrower  
23 plans to do with the money they're borrowing, how they're  
24 going to pay it back. So, I mean -- it's -- intuitively if  
25 you were lending someone money it's probably not too

SN OCR RPR

Jurkowitz - direct - Moeser 2705

1 dissimilar to what you would want to know.  
2 MS. MOESER: Your Honor, I would like to admit  
3 Government Exhibit 510 -- actually, it's already in evidence.  
4 If I could show Government Exhibit 510 and 510-A?  
5 THE COURT: You may. They are in evidence.  
6 (Exhibit published.)  
7 BY MS. MOESER:  
8 Q What's Government Exhibit 510, Mr. Jurkowitz?  
9 A An e-mail.  
10 Q Who's the e-mail from?  
11 A Dominic Schultens.  
12 Q Who is Dominic Schultens?  
13 A He was one of our syndicate professionals at Credit  
14 Suisse.  
15 Q Who is the e-mail to?  
16 A It is to Aneesh Partap.  
17 Q Who is Aneesh Partap?  
18 THE COURT: Who is it from?  
19 THE WITNESS: Dominic Schultens.  
20 THE COURT: Go ahead.  
21 BY MS. MOESER:  
22 Q Who is it to?  
23 A Aneesh Partap.  
24 Q Who is Aneesh Partap?  
25 A Aneesh Partap at the time worked for Ice Canon.

SN OCR RPR

Jurkowitz - direct - Moeser 2706

1 Q What's Ice Canon?  
2 A Ice Canon is one of Credit Suisse's investor clients.  
3 Q And are you copied on the e-mail?  
4 A Yes.  
5 Q What's the date of the e-mail?  
6 A March 13, 2013.  
7 MS. MOESER: If you can go to the bottom of the  
8 first page, Ms. DiNardo.  
9 BY MS. MOESER:  
10 Q Mr. Jurkowitz, directing your attention to the e-mail at  
11 the bottom of the first page, who sent that e-mail?  
12 A I did.  
13 Q And who did you send it to?  
14 A Aneesh Partap.  
15 Q Apologies. What are you -- what information are you  
16 providing to Mr. Partap?  
17 A I am communicating to Aneesh general terms about the  
18 transaction we were working on and the use of proceeds.  
19 Q What was the use of proceeds for the transaction that you  
20 were working on at this time?  
21 A To build a radar surveillance system for ships that  
22 passed in the water between Mozambique and Madagascar.  
23 Q And at this time who were you arranging the financing  
24 for?  
25 A That was for -- the borrower was a special purpose

SN OCR RPR

Jurkowitz - direct - Moeser 2707

1 vehicle and the facility was the guaranteed by the Republic of  
2 Mozambique.  
3 MS. MOESER: If we can scroll down a little bit,  
4 Ms. DiNardo.  
5 BY MS. MOESER:  
6 Q Mr. Jurkowitz, you mentioned the guarantee. What's a  
7 guarantee?  
8 A A guarantee is a legal agreement that the guarantor will  
9 make good on the debt obligation if the borrower for any  
10 reason does not pay the debt obligation.  
11 Q And who is the guarantor of this deal?  
12 A It was The Republic of Mozambique through the Ministry of  
13 Finance of Mozambique.  
14 Q And looking up to the bullet points up top, you mentioned  
15 the borrower was a special purpose vehicle. Who owned the  
16 special purpose vehicle?  
17 A The Republic of Mozambique.  
18 MS. MOESER: And if we can scroll down a little bit  
19 more, Ms. DiNardo.  
20 BY MS. MOESER:  
21 Q Who is the contractor on the project, Mr. Jurkowitz?  
22 A Privinvest Shipbuilding SAL Abu Dhabi branch.  
23 Q And what's the total facility amount?  
24 A 372 million in U.S. dollars.  
25 Q Were you marketing this deal to Ice Canyon at this time?

SN OCR RPR

Jurkowitz - direct - Moeser 2708

1 A Yes.

2 Q Showing you Government Exhibit 514 already in evidence.

3 (Exhibit published.)

4 Q What's Government Exhibit 514, Mr. Jurkowitz?

5 A An e-mail.

6 Q Who is it from?

7 A Aneesh Partap.

8 Q Who is it to?

9 A Dominic Schultens.

10 Q Are you copied on the e-mail?

11 A Yes.

12 MS. MOESER: If we can show the first e-mail at the

13 bottom of the page, Ms. DiNardo.

14 Q What's -- we see the IMF mentioned here, Mr. Jurkowitz.

15 What's the IMF?

16 A The International Monetary Fund.

17 Q What's the importance of the International Monetary Fund

18 in emerging markets?

19 A The International Monetary Fund is a multilevel

20 government organization that provides funding to countries

21 that a lot of times are in need of funding and perhaps don't

22 have readily access to funds. So, the IMF will come in as a

23 government entity, as a world government entity, and basically

24 say to the country if you're able to perform certain macro and

25 microeconomic programs, if you kind of are able to stick to

SN OCR RPR

Jurkowitz - direct - Moeser 2709

1 your budget, we'll lend you money.

2 MS. MOESER: And, Your Honor, if I could admit

3 Government Exhibit 2334.

4 THE COURT: Any objection?

5 MR. SCHACHTER: May I see it briefly, Your Honor?

6 THE COURT: Yes.

7 Please publish it electronically for counsel.

8 MR. SCHACHTER: No objection.

9 THE COURT: Admitted.

10 (Government Exhibit 2334 received in evidence.)

11 THE COURT: You may publish it.

12 (Exhibit published.)

13 BY MS. MOESER:

14 Q Mr. Jurkowitz, what's Government Exhibit 2334?

15 A An e-mail.

16 Q And who is it from?

17 A Dominic Schultens.

18 Q Who is it to?

19 A Me.

20 Q What's the date?

21 A July 1, 2013.

22 MS. MOESER: Can we go to the first e-mail on the

23 first page, Ms. DiNardo.

24 (Exhibit published.)

25 BY MS. MOESER:

SN OCR RPR

Jurkowitz - direct - Moeser 2710

1 Q Mr. Jurkowitz, did Ice Canyon eventually participate in

2 the deal that you were marketing to them?

3 A Yes.

4 Q What was the value of their participation?

5 A 15 million U.S. dollars.

6 Q And did this deal come to be known by a particular name?

7 A Proindicus.

8 Q What's the total facility at this time?

9 A 642 million U.S. dollar.

10 Q And who is the guarantor?

11 A The Republic of Mozambique.

12 Q Where was Ice Canyon located?

13 A Los Angeles, California.

14 Q Was there another Mozambique deal that came to your

15 attention in 2013?

16 A Not that I remember.

17 MS. MOESER: Your Honor, at this time I would seek

18 to admit Government Exhibit 3214, 3214-A and 3214-B.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No objection.

21 THE COURT: Admitted.

22 (Government Exhibit 3214, 3214-A and 3214-B received

23 in evidence.)

24 THE COURT: You may publish.

25 (Exhibit published.)

SN OCR RPR

Jurkowitz - direct - Moeser 2711

1 BY MS. MOESER:

2 Q Mr. Jurkowitz, we can below this up, does this refresh

3 your recollection that there was another Mozambique deal that

4 came to your attention in 2013?

5 A Yes.

6 Q What was that deal?

7 A This was the EMATUM loan participation notes.

8 Q What was the format of the -- what's a loan participation

9 note?

10 A A loan participation note is a pool of loans that are

11 then securitized so that a note or a bond is issued and

12 effectively the bond is backed by the loan.

13 Q Is a loan participation note a security?

14 A Yes.

15 Q And what was the format of this loan participation note?

16 Directing your attention to the first sentence, who could

17 purchase this loan participation note, Mr. Jurkowitz?

18 A So, investors who had Reg S-eligible funds to invest.

19 Q And who were you going to try to sell the loan

20 participation note to?

21 A We would show a deal, a Reg S deal, to investors who had

22 Reg S-eligible funds to invest.

23 Q And what are Reg S-eligible funds, to your understanding?

24 A My understanding is they're funds that are eligible to

25 invest in Reg S securities.

SN OCR RPR

1 Q And is there a term you're familiar with called  
 2 seasoning?  
 3 A Yes.  
 4 Q What's seasoning?  
 5 A The way I understand seasoning is if after a 40-day  
 6 period, Reg S securities can then be invested in by on-shore  
 7 or any investor in the U.S.  
 8 Q You used the term in this e-mail axe. What's an axe?  
 9 A An axe is something -- it's kind of a colloquial  
 10 financial services term meaning something you're trying to get  
 11 done. It emanates from having an axe to grind.  
 12 Q And you were marketing this to your clients; correct?  
 13 A Our clients who had Reg S funds to invest, yes.  
 14 Q Where were you located when you were selling the EMATUM  
 15 LPNs?  
 16 A New York.  
 17 Q What did you attach to this e-mail?  
 18 A The Moody's ratings release for the Republic of  
 19 Mozambique.  
 20 Q Showing you Government Exhibit 3214-A.  
 21 (Exhibit published.)  
 22 BY MS. MOESER:  
 23 Q What's Government Exhibit 3214-A, Mr. Jurkowitz?  
 24 A Moody's Investor Services ratings release.  
 25 MS. MOESER: And if we could show Government Exhibit

SN OCR RPR

1 Q Secondary trades.  
 2 A If a client wanted to buy or sell this security or any  
 3 security, then I would ask my trader for a price, communicate  
 4 the price to the investor and the investor then would decide  
 5 whether to buy or sell it.  
 6 Q And when is the trade between you and the investor  
 7 completed?  
 8 A As soon as the investor and we, the broker, agree on a  
 9 price and say done. It's another colloquial Wall Street  
 10 concept that happens a zillion times a day in the  
 11 over-the-counter bonds market.  
 12 Q And where are you when you're conducting these trades?  
 13 A New York.  
 14 Q And are these trades able to be undone after you say  
 15 done?  
 16 A You know, I never say never but very, very, very rarely.  
 17 Q How long have you been conducting trades like this?  
 18 A Since 1994. So I've been in the securities industry  
 19 since 1990. I've been conducting trades like this since 1994.  
 20 MS. MOESER: Your Honor, I would seek admission of  
 21 Government Exhibits 910 and 910-A.  
 22 THE COURT: Any objection to 910 and 910 A?  
 23 Show them to your adversary.  
 24 MR. SCHACHTER: No objection, Your Honor.  
 25 THE COURT: They're admitted.

SN OCR RPR

1 3214-B.  
 2 (Exhibit published.)  
 3 BY MS. MOESER:  
 4 Q What's Government Exhibit 3214-B?  
 5 A Moody's Investors Services ratings action.  
 6 Q Why were the Moody's ratings important?  
 7 A Well, Moody's is an internationally recognized ratings  
 8 service and a ratings service assigns its independent view to  
 9 a given security. So it's viewed as a credible, independent  
 10 opinion on a particular security.  
 11 Q Did you sell the EMATUM LPN in the primary market?  
 12 A Yes.  
 13 Q What's the primary market?  
 14 A The primary market is the first time a security gets  
 15 issued in the marketplace.  
 16 MS. MOESER: You can take this down, Ms. DiNardo.  
 17 BY MS. MOESER:  
 18 Q Did you also sell the EMATUM LPN in the secondary market?  
 19 A To the best of my memory, I'm sure I did. I don't  
 20 remember exactly, but maybe bought and sold it. So the  
 21 secondary market happens after the primary market when bonds  
 22 are traded back and forth. I'm sure I did. I don't remember  
 23 exactly, but --  
 24 Q How did you conduct the trades of the EMATUM LPN?  
 25 A Secondary trades?

SN OCR RPR

1 (Government Exhibits 910 and 910-A received in  
 2 evidence.)  
 3 THE COURT: You may publish.  
 4 (Exhibit published.)  
 5 BY MS. MOESER:  
 6 Q Mr. Jurkowitz, what's Government Exhibit 910?  
 7 A An e-mail.  
 8 Q Who's it from?  
 9 A Me.  
 10 Q Who's to it?  
 11 A Jonathan Prin.  
 12 Q What's the date?  
 13 A June 19, 2015.  
 14 Q And what have you attached?  
 15 A Mozambique offering circular. The Mematu offering  
 16 circular it looks like.  
 17 MS. MOESER: If we can show Government Exhibit  
 18 910-A, Ms. DiNardo.  
 19 (Exhibit published.)  
 20 BY MS. MOESER:  
 21 Q What's Government Exhibit 910-A, Mr. Jurkowitz?  
 22 A The EMATUM offering circular.  
 23 Q Going back to Government Exhibit 910.  
 24 (Exhibit published.)  
 25 BY MS. MOESER:

SN OCR RPR

Jurkowitz - direct - Moeser 2716

1 Q Why were you sending Jonathan Prin the offering circular

2 two years after the offering, Mr. Jurkowitz?

3 A That's a pretty normal occurrence. If someone is doing

4 due diligence on a secondary market investment or trade, the

5 first thing we would want to look at is the original offering

6 circular.

7 THE COURT: Your Honor, I would seek the admission

8 of Government Exhibit 3189.

9 MR. SCHACHTER: No objection, Your Honor.

10 THE COURT: Admitted.

11 (Government Exhibit 3189 received in evidence.)

12 THE COURT: You may publish.

13 (Exhibit published.)

14 BY MS. MOESER:

15 Q Mr. Jurkowitz, what's Government Exhibit 3189?

16 A This is a Bloomberg Message.

17 Q What's a Bloomberg Message?

18 A Bloomberg is the fixed income or bond market analytics

19 and communication system that is very widely used in the bond

20 markets as a communications tool and analytics tool.

21 Q Who sent this Bloomberg message?

22 A I did.

23 Q What's the date?

24 A March 9, 2016.

25 MS. MOESER: Ms. DiNardo if we can sort of scroll

SN OCR RPR

Jurkowitz - direct - Moeser 2717

1 through the first five pages.

2 BY MS. MOESER:

3 Q Mr. Jurkowitz, who were you sending this Bloomberg

4 message to?

5 A So that was a blast distribution list which is

6 essentially all of our eligible clients, Credit

7 Suisse-eligible clients, to communicate -- to communicate

8 something and in this case the exchange offer and consent

9 solicitation for EMATUM.

10 Q What's an exchange offer?

11 A It is an offer to holders of a bond to exchange an

12 existing bond for a new bond.

13 Q And directing your attention to the Description section

14 in sort of the middle of the page, what was the format of the

15 new instrument going to be?

16 A The format Reg S 144A.

17 Q You previously told us what Reg S meant, but what's 144

18 A, Mr. Jurkowitz?

19 A 144A is -- shore eligibility so U.S. investors -- U.S.

20 institutional investors can buy 144A transactions in the

21 primary market.

22 THE COURT: What does the doctrine actually say

23 there?

24 THE WITNESS: 114A.

25 THE COURT: Is that a typographical error or is hat

SN OCR RPR

Jurkowitz - direct - Moeser 2718

1 a different regulation?

2 THE WITNESS: I think it's a typographical error.

3 THE COURT: Are you familiar with a regulation

4 114-A?

5 THE WITNESS: I am not.

6 THE COURT: Neither am I.

7 But, go ahead.

8 MS. MOESER: Thank you, Your Honor.

9 BY MS. MOESER:

10 Q Mr. Jurkowitz, directing your attention to Government

11 Exhibit 3102 already in evidence?

12 (Exhibit published.)

13 BY MS. MOESER:

14 Q Mr. Jurkowitz, did any of your clients hold the EMATUM

15 LPN around the time of the exchange?

16 A Yes.

17 Q Who?

18 A To the best of my memory Alliance Capital owned it. And

19 I think this is a typo where the name Allianz is used. I

20 think Alliance owned it. I'm not 100 percent sure. I think

21 Stone Harbor might have owned it as well. Those are the only

22 two I can remember possibly owning it. I think they did,

23 though.

24 Q Did Credit Suisse arrange meetings for investors related

25 to the exchange, Mr. Jurkowitz?

SN OCR RPR

Jurkowitz - direct - Moeser 2719

1 A Yes.

2 Q I'm showing you Government Exhibit 2985-A in evidence.

3 (Exhibit published.)

4 Q Did you attend those meetings, Mr. Jurkowitz?

5 A No.

6 MS. MOESER: If we can go to page seven,

7 Ms. DiNardo.

8 (Exhibit published.)

9 Q Mr. Jurkowitz, did some of your clients attend those

10 meetings?

11 A Yes. Between Aaron Tai and me, all the clients in the

12 U.S. were under our mandate. So whether we covered them

13 directly or not, the two of us ran the team, so these are all

14 U.S. clients it looks like.

15 Q Looking towards the middle of this page --

16 MS. MOESER: Ms. DiNardo, thank you.

17 Q The 12:30 appointment, who was that with?

18 A Alliance.

19 Q And who represents Alliance?

20 A Marco Santamaria at the time.

21 Q Does this refresh your memory --

22 A Yes.

23 Q -- as to whether Alliance held --

24 THE COURT: You have to let her finish.

25 Q -- as to whether Alliance held the LPN at the time of the

SN OCR RPR

Jurkowitz - direct - Moeser 2720

1 exchange?

2 A Yes.

3 Q Did Alliance hold the LPN at the time of the exchange,

4 Mr. Jurkowitz?

5 A I still would say not 100 percent because bankers will

6 set up one-on-ones ideally with investors who own it, but if

7 there is a chance that they don't own it -- you know, if it's

8 a large, sophisticated investor that they want to tell the

9 story to, but I would think they owned it, yes.

10 Q Do you know if the exchange was successful Mr. Jurkowitz?

11 A I don't remember.

12 Q When did you leave Credit Suisse?

13 A April 2016.

14 MS. MOESER: You can take that down, Ms. DiNardo.

15 BY MS. MOESER:

16 Q If Credit Suisse had known that its bankers were paid

17 millions by the contractor on the Proindicus and EMATUM

18 project, would Credit Suisse have approved the Proindicus

19 deal?

20 MR. SCHACHTER: Objection.

21 THE COURT: Overruled.

22 A No.

23 Q Would Credit Suisse have approved the EMATUM deal?

24 A No.

25 MR. SCHACHTER: Objection.

SN OCR RPR

Jurkowitz - direct - Moeser 2721

1 THE COURT: Overrule the objection.

2 Go ahead.

3 Q Would Credit Suisse have approved the exchange?

4 MR. SCHACHTER: Objection.

5 THE COURT: Overruled.

6 A No.

7 Q If Credit Suisse had known that its bankers were paid

8 millions by the contractor on the Proindicus and EMATUM

9 project, would it have offered the Proindicus deal to clients?

10 MR. SCHACHTER: Objection.

11 A No.

12 THE COURT: Overruled.

13 Q Would it have offered the EMATUM deal to the clients?

14 MR. SCHACHTER: Objection.

15 THE COURT: Overruled.

16 A No.

17 Q Would it have offered the exchange to clients?

18 MR. SCHACHTER: Objection.

19 A No.

20 THE COURT: Overruled.

21 MS. MOESER: Your Honor, if I may have a moment.

22 (Pause in proceedings.)

23 MS. MOESER: Nothing further, Your Honor.

24 THE COURT: Your witness.

25 (Continued on the following page.)

SN OCR RPR

Jurkowitz - cross - Schachter 2722

1 (Continuing)

2 CROSS-EXAMINATION

3 BY MR. SCHACHTER:

4 Q Good afternoon.

5 A Good afternoon.

6 Q My name is Mike Schachter, I represent Jean Boustani.

7 You were involved in selling both the Proindicus

8 loan to some extent and also, the EMATUM loan participation

9 notes; is that correct?

10 A Yes.

11 Q I want to start by asking a few questions about

12 Proindicus.

13 MR. SCHACHTER: And, Your Honor, I'd like to publish

14 Government's Exhibit 3, in evidence.

15 THE COURT: You may publish.

16 (Exhibit published.)

17 Q Mr. Jurkowitz, this is a document called a confidential

18 information memorandum.

19 Do you see that?

20 A Yes.

21 Q And do you recognize this to be a memorandum of

22 information that Credit Suisse provided to investors who were

23 considering purchasing pieces of the Proindicus loan from

24 Credit Suisse?

25 Do you recognize that?

VB OCR CRR

Jurkowitz - cross - Schachter 2723

1 A Yes.

2 THE COURT: Again, you have to let him finish before

3 you answer.

4 Go ahead.

5 Q And is this, the purpose of this memorandum is to provide

6 important information about the loan to those investors.

7 A Yes.

8 MR. SCHACHTER: I'd like to show you page 4.

9 May we publish that?

10 THE COURT: You may.

11 MR. BINI: It is in evidence.

12 (Exhibit published.)

13 Q And do you see where it says transaction summary -- I'm

14 sorry -- executive summary and transaction overview?

15 A Yes.

16 Q And this is right at the beginning of the information

17 memorandum for investors; is that right?

18 A Yes.

19 Q And if I can just direct your attention to the very third

20 paragraph of this memorandum.

21 MR. SCHACHTER: If we could blow that up.

22 Q Do you see where it says that the -- the last two

23 sentences: The borrower's obligations under the facility

24 will, in turn, be unconditionally and irrevocably guaranteed

25 by the minister of finance. Repayment of the facility will

VB OCR CRR

Jurkowitz - cross - Schachter 2724

1 not in any way be linked to the construction or performance of  
 2 the project.  
 3 Can you explain what that means?  
 4 A That the guarantor is going to provide a backstop for the  
 5 repayment of funds.  
 6 Q And how about the next sentence? What does it mean that  
 7 repayment of the facility is not going to in any way -- I'm  
 8 sorry --  
 9 MR. SCHACHTER: Withdrawn.  
 10 Q When Credit Suisse tells investors that repayment of the  
 11 facility is not going to be in any way linked to the  
 12 construction or performance of the project, what does that  
 13 mean?  
 14 A It is suggesting that the guarantor is the primary credit  
 15 factor in the project.  
 16 Q And is that consistent with your recollection that the,  
 17 that as you were communicating with investors regarding the  
 18 Proindicus loan, that the most important factor was the  
 19 Government guarantee?  
 20 If you remember.  
 21 A I do. I think it was, yes.  
 22 Q Ms. Moeser showed you some back and forth with one  
 23 investor called Ice Canyon in which they were asking questions  
 24 about the project.  
 25 Do you remember that?  
 VB OCR CRR

Jurkowitz - cross - Schachter 2725

1 A Yes.  
 2 Q But is it fair to say that sometimes when you were  
 3 communicating with investors regarding potentially buying a  
 4 piece of the Proindicus loan, you didn't mention the project  
 5 at all?  
 6 Do you remember?  
 7 A Highly doubtful. I mean, these are sophisticated  
 8 investors, so even though the guarantor is a huge factor  
 9 because it allows the investor to, essentially, then analyze  
 10 the country, these investors are going to do their due  
 11 diligence on the project as well.  
 12 Q I guess ---  
 13 A So I guess I would say --  
 14 THE COURT: Please, please.  
 15 THE WITNESS: Yes, Your Honor.  
 16 THE COURT: Do not talk over each other, all right?  
 17 So, put a question, pause, and then answer.  
 18 THE WITNESS: Okay.  
 19 Q Mr. Jurkowitz, I'm asking when you would initially  
 20 communicate with investors to solicit, to see whether they're  
 21 interested in buying a piece of Credit Suisse's loan, do you  
 22 happen to remember whether in some of those circumstances you  
 23 didn't mention the nature of the project at all?  
 24 A I do not.  
 25 MR. SCHACHTER: Your Honor, we'll offer Government's  
 VB OCR CRR

Jurkowitz - cross - Schachter 2726

1 Exhibit 902.  
 2 THE COURT: Any objection to 902?  
 3 MS. MOESER: No objection, Your Honor.  
 4 THE COURT: Admitted. You may publish.  
 5 (Government's Exhibit 902 received in evidence.)  
 6 (Exhibit published.)  
 7 MR. SCHACHTER: And Mr. McLeod, could you please  
 8 turn to the bottom e-mail.  
 9 Q Mr. Jurkowitz, do you recognize this to be an e-mail that  
 10 you sent on April 23rd, 2013, to a group of people at  
 11 Greylock?  
 12 A Yes.  
 13 Q And you wrote, the subject is debut commercial loan  
 14 financing for the Republic of Mozambique.  
 15 A Yes.  
 16 Q And so, would this be like, an initial mention to  
 17 Greylock of this opportunity?  
 18 A Yes.  
 19 Q And can you just take a quick look at it to yourself and  
 20 my question will be: Do you see that it talks about the fact  
 21 that it's a loan for Mozambique and it's government risk?  
 22 A Yes.  
 23 Q And when you told this potential investor that it's  
 24 government risk, what does that mean?  
 25 A That it's guaranteed by a sovereign government.  
 VB OCR CRR

Jurkowitz - cross - Schachter 2727

1 MR. SCHACHTER: And then, if we can turn to the  
 2 second page, which is the rest of your e-mail. I'm sorry not  
 3 the second page, I meant the next page, Mr. McLeod, that we  
 4 show the bottom part of Mr. Jurkowitz's e-mail.  
 5 (Exhibit published.)  
 6 Q And if you just look at this, I'll just draw your  
 7 attention to a couple pieces of it.  
 8 Do you see where you talk about the fact that the  
 9 borrower's a special purpose vehicle that's going to be owned  
 10 by the government of Mozambique?  
 11 A This is the syndicate information that we forward on from  
 12 our syndicate desk. So, this is the same e-mail that we  
 13 looked at previously that is prepared for all the salespeople  
 14 around the world from our syndicate desk. So, yeah, I did not  
 15 write this.  
 16 THE COURT: The question you were asked is: Do you  
 17 see it?  
 18 THE WITNESS: I do see it.  
 19 THE COURT: Next question.  
 20 Q And here, it describes some information about the loan;  
 21 is that right?  
 22 A Yes.  
 23 Q And it also said that the purpose is limited to financing  
 24 of a specific project.  
 25 Do you see that?  
 VB OCR CRR

1 A Yes.

2 Q But at least in this e-mail, you didn't go into any kind

3 of lengthy description of the nature of the project; is that

4 right?

5 A The syndicate desk wrote this e-mail again, and they did

6 not --

7 THE COURT: Answer the question.

8 Read the question back, Madame Reporter.

9 And let's have an answer to the question, there will

10 be an opportunity for a redirect.

11 THE WITNESS: Okay.

12 THE COURT: Just answer the question you are asked,

13 sir.

14 Read it back, Madame Court Reporter. Keep your

15 voice up.

16 (The requested portion of the record was read back

17 by the Official Court Reporter.)

18 THE COURT: Did you or didn't you go into a lengthy

19 description --

20 THE WITNESS: The syndicate.

21 THE COURT: -- of the project -- wait a minute,

22 quarterback.

23 Did you or did you not go into a lengthy description

24 in the e-mail? Yes, you did or no, you did not.

25 THE WITNESS: No.

VB OCR CRR

1 A In the --

2 THE COURT: Please, do not talk over each other.

3 Put the question again, and then we will get an

4 answer, and then we will break for lunch.

5 Put the question.

6 Q Did this -- were you sending to this investor information

7 that you received from the syndicate desk?

8 A Yes.

9 THE COURT: Now we are breaking for lunch.

10 We will see you at 2:30 Ladies and Gentlemen of the

11 Jury. Do not talk about the case.

12 Witness, you are directed not to talk about the case

13 with anyone during the break.

14 Thank you.

15 THE COURTROOM DEPUTY: All rise.

16 (Jury exits.)

17 (In open court; outside the presence of the jury.)

18 THE COURT: You may step down, sir, thank you and

19 please leave the courtroom.

20 (Witness excused.)

21 THE COURT: The jury has left the courtroom, the

22 witness has left the courtroom.

23 Do we have any procedural issues to address while

24 the jury is out of the courtroom --

25 You may be seated, ladies and gentlemen.

VB OCR CRR

1 THE COURT: Next question.

2 Q And then, if I can also --

3 MR. SCHACHTER: We'll offer Government's

4 Exhibit 606-A.

5 THE COURT: In evidence?

6 MR. SCHACHTER: No, Your Honor.

7 THE COURT: Any objection?

8 MS. MOESER: No objection, Your Honor.

9 THE COURT: Admitted. Publish.

10 (Government's Exhibit 606-A received in evidence.)

11 (Exhibit published.)

12 Q And this is, Mr. Jurkowitz, another e-mail that you sent

13 to a potential investor regarding the Proindicus loan; is that

14 right?

15 A Yes.

16 Q And here again, if you can just take a look at it, to

17 yourself, and you see that you wrote: Just wanted to update

18 you on this loan we have guaranteed by Mozambique.

19 Do you see that?

20 A Yes.

21 MR. SCHACHTER: And Mr. McLeod, if we can just show

22 the rest of this e-mail to Mr. Jurkowitz as well.

23 (Exhibit published.)

24 Q And I guess the rest of this is the information from the

25 syndicate desk that you would provide to --

VB OCR CRR

1 -- and while the witness has left the courtroom and

2 the defendant is still present.

3 MR. BINI: Not for the Government.

4 MR. SCHACHTER: Not for the Defense.

5 Thank you, Your Honor.

6 THE COURT: I would hope that all of the witnesses

7 that you folks prepared, distinguished Counsel on both sides,

8 are informed that they are to answer the questions as asked so

9 that we will get this trial moving appropriately. This trial

10 is going to be concluded by November 22nd, so I assure you

11 that you will get that done and you will get it done one way

12 or another.

13 MR. BINI: Yes, Your Honor.

14 THE COURT: Okay? I hope everybody understands

15 that.

16 We are adjourned. See you after lunch.

17

18 (Continued on following page with AFTERNOON

19 SESSION.)

20

21

22

23

24

25

VB OCR CRR

1 AFTERNOON SESSION:  
 2 (In open court.)  
 3 (Judge WILLIAM F. KUNTZ, II enters the courtroom.)  
 4 THE COURTROOM DEPUTY: Judge Kuntz presiding.  
 5 THE COURT: Thank you.  
 6 I see we have the appearances. We will have the  
 7 defendant produced.  
 8 Do we have any procedural issues before we bring the  
 9 jury back?  
 10 MR. BINI: Not from the Government.  
 11 MR. JACKSON: No, Your Honor.  
 12 THE COURT: Okay.  
 13 Once the defendant is produced, we will bring the  
 14 jury in.  
 15 (Defendant enters the courtroom.)  
 16 THE COURT: Good afternoon, welcome back.  
 17 THE DEFENDANT: Good afternoon, thank you.  
 18 THE COURT: Mr. Jackson, get the jury.  
 19 Would you please return to the stand.  
 20 We will get the jury back.  
 21 (Witness resumes stand.) (Jury enters.)  
 22 THE COURT: Welcome back Ladies and Gentlemen of the  
 23 Jury. As always, we appreciate your promptness, I hope you  
 24 had a good lunch. Please, be seated.  
 25 We will continue with the examination.

VB OCR CRR

1 MS. MOESER: No objection, Your Honor.  
 2 THE COURT: Admitted. You may publish.  
 3 (Defendant's Exhibit 4640 received in evidence.)  
 4 (Exhibit published.)  
 5 MR. SCHACHTER: Mr. Jurkowitz, I'll just direct your  
 6 attention to the second page of the e-mail from Mr. Partap,  
 7 March 26th, 2013.  
 8 Q Do you see here where Mr. Partap is writing to Dominick  
 9 Schultens, he was in syndication at Credit Suisse; is that  
 10 correct?  
 11 A Yes.  
 12 Q And copying you and he writes: Some of the withholding  
 13 tax language seems confusing. My understanding is that  
 14 Ireland, the domicile of our funds, does not have a tax treaty  
 15 with Mozambique.  
 16 Do you see that?  
 17 A Yes.  
 18 Q And does that help you remember that Mr. Partap at  
 19 Ice Canyon told that you the entity that would actually be  
 20 buying a piece of the Proindicus loan was an Irish corporate  
 21 entity?  
 22 A Yes.  
 23 MR. SCHACHTER: You can put that down, Mr. McLeod.  
 24 Q Now, is it fair to say that the client base that you were  
 25 marketing the EMATUM LPNs to were what you would call

VB OCR CRR

1 Sir, did you discuss your testimony with anyone  
 2 during the break?  
 3 THE WITNESS: No.  
 4 THE COURT: Thank you, sir.  
 5 Please, continue.  
 6 MR. SCHACHTER: Thank you, Your Honor.  
 7 CROSS-EXAMINATION (Continuing)  
 8 BY MR. SCHACHTER:  
 9 MR. SCHACHTER: Mr. Jurkowitz, just a few very quick  
 10 topics.  
 11 Q Ms. Moeser asked you about your interactions with  
 12 Ice Canyon involving purchasing a piece of the Proindicus loan  
 13 from Credit Suisse; is that correct?  
 14 A Yes.  
 15 Q And do you recall that Ice Canyon told you that they  
 16 would be purchasing that loan in an Irish fund?  
 17 Do you have a memory of that?  
 18 A I do not.  
 19 MR. SCHACHTER: Your Honor, we'll offer Defense  
 20 Exhibit 4640.  
 21 THE COURT: Any objection?  
 22 MS. MOESER: If we can see it, Your Honor.  
 23 THE COURT: Please, show it to Counsel and the  
 24 Court.  
 25 MR. SCHACHTER: Yes, Your Honor.

VB OCR CRR

1 sophisticated investors; is that correct?  
 2 A Yes.  
 3 Q And, in fact, Credit Suisse had those investors sign  
 4 something that's called a big boy letter.  
 5 Do you recall that?  
 6 A Yes.  
 7 MR. SCHACHTER: I'm going to show you or actually,  
 8 Your Honor, we'll offer Defense Exhibit 4679.  
 9 THE COURT: Any objection?  
 10 MS. MOESER: If we can get a copy of it, Your Honor.  
 11 THE COURT: You may have a copy, receive  
 12 electronically.  
 13 Any objection?  
 14 MS. MOESER: No objection.  
 15 MS. NIELSEN: Admitted, you my publish. You are  
 16 getting a copy.  
 17 (Defendant's Exhibit 4679 received in evidence.)  
 18 (Exhibit published.)  
 19 Q Mr. Jurkowitz, I'm showing you what's been marked as  
 20 Defense Exhibit 4679.  
 21 Do you -- well.  
 22 MR. SCHACHTER: Why don't we do this. So, let me  
 23 just show you the first page.  
 24 Q And do you see where it says: To Credit Suisse  
 25 Securities Europe Limited?

VB OCR CRR



- 1 A Yes.
- 2 Q It's dated September 5, 2013?
- 3 A Yes.
- 4 Q And it's a letter. The form of this letter is, it's
- 5 addressed to Credit Suisse Securities Europe and also, to BNP
- 6 Paribas.
- 7 Do you see that?
- 8 A Yes.
- 9 Q And is that because both Credit Suisse Securities Europe
- 10 and BNP Paribas were both what is called joint lead managers
- 11 of the EMATUM LPN offering?
- 12 If you remember.
- 13 A I don't remember Paribas BNP being in the deal.
- 14 Q You see the date September 5th.
- 15 And in the second paragraph it references a
- 16 potential investment in the USD loan participation notes
- 17 issued by Mozambique?
- 18 A Yes.
- 19 Q All right.
- 20 MR. SCHACHTER: And then I'll just -- just to orient
- 21 you I'll show you the last page, if we can.
- 22 (Exhibit published.)
- 23 Q And do you see that this particular letter is signed by
- 24 Franklin Templeton?
- 25 A Yes.

VB OCR CRR

- 1 relied on any communication, written or oral, of any relevant
- 2 person as investment advice or as a recommendation to acquire
- 3 the notes.
- 4 THE COURT: There is no need to read this. The jury
- 5 sees it, it is in evidence. He told you generally what it is
- 6 about. It is a responsive answer.
- 7 Is there a question you have for him?
- 8 MR. SCHACHTER: Yes, Your Honor, I'll move on.
- 9 And then, sir, if I could just direct your attention
- 10 to paragraph number 4 called assessment and understanding.
- 11 I'll just ask you again, if you could review this to yourself
- 12 and then let us know, you know, what your understanding is of
- 13 this paragraph.
- 14 (Pause in the proceedings.)
- 15 THE WITNESS: Okay.
- 16 Q And can you explain what your understanding is of what
- 17 this provision is stating?
- 18 A That the investor understands what they're purchasing.
- 19 MR. SCHACHTER: And then, second to last, let me
- 20 just turn your attention to paragraph 12, the section on U.S.
- 21 Securities Act, where it talks about the purchaser
- 22 representing that it is acquiring the notes in an off-shore
- 23 transaction within the meaning of Regulation S.
- 24 Q Can you explain what that means?
- 25 A That they have Reg S. eligible funds to invest.

VB OCR CRR

- 1 Q Okay. So, do you recognize this to be one of the big boy
- 2 letters that Credit Suisse had investors sign in connection
- 3 with the LPN issuance?
- 4 A Yes.
- 5 Q All right.
- 6 MR. SCHACHTER: Now I'll just direct your attention
- 7 to a couple portions of them and you can see if you can tell
- 8 us what you understand they mean.
- 9 First, if we can turn to, on the first page, if we
- 10 can blow up, Mr. McLeod, number 3.
- 11 (Exhibit published.)
- 12 MR. SCHACHTER: And so here, Franklin Templeton is
- 13 stating that: We are acting for our own account. And it
- 14 references making their own independent decisions. And I
- 15 guess I'll just ask you, just to take a quick read of it for
- 16 yourself and then, let us know -- and then we'll just ask you
- 17 to explain what this provision is saying. But take a moment
- 18 to read it.
- 19 (Pause in the proceedings.)
- 20 THE WITNESS: Okay.
- 21 Q So, can you explain to the jury, in very general terms,
- 22 what is this paragraph communicating by Franklin Templeton?
- 23 A That the investor is making its own independent decision
- 24 whether or not to invest.
- 25 Q And it goes on to say that: We do not rely and have not

VB OCR CRR

- 1 Q All right.
- 2 MR. SCHACHTER: And then lastly, if we could turn to
- 3 paragraph 17.
- 4 Q Can you just explain what the purpose of having the
- 5 section on governing law and jurisdiction being English law
- 6 and English courts, why that's part of this letter to Credit
- 7 Suisse Securities Europe?
- 8 A To specify the governing law.
- 9 Q All right. Thank you.
- 10 MR. SCHACHTER: Your Honor, we, without publishing,
- 11 but we will offer, I'll provide copies to the Government, of
- 12 similar big boy letters. I'll just go through the Exhibit
- 13 numbers.
- 14 May I provide copies?
- 15 THE COURT: First of all, why don't you call them
- 16 out using the microphone and then we will see if there is any
- 17 objection to them.
- 18 I take it you want to offer them into evidence; is
- 19 that correct?
- 20 MR. SCHACHTER: Yes, Your Honor.
- 21 THE COURT: So, why don't you call out the Exhibit
- 22 numbers and we will see if there is any objection.
- 23 MR. SCHACHTER: Your Honor, may I provide a copy of
- 24 this to the Government?
- 25 THE COURT: Do you have a copy to read from?

VB OCR CRR

Jurkowitz - cross - Schachter 2740

1 MR. SCHACHTER: Yes, I do.  
2 THE COURT: Okay.  
3 MR. SCHACHTER: And, Your Honor, they are Defense  
4 Exhibits.  
5 THE COURT: Not too fast, but promptly.  
6 MR. SCHACHTER: Yes, Your Honor, I'll do both.  
7 THE COURT: Thank you.  
8 MR. SCHACHTER: Defense Exhibit 4663, 4664, 4665,  
9 4666, 4667, 4668, 4669, 4670, 4671, 4672, 4673, 4674, 4675,  
10 4676, 4677, 4678 and 4680.  
11 THE COURT: Any objection to any of those documents  
12 being admitted into evidence?  
13 MS. MOESER: No objection, Your Honor.  
14 THE COURT: They are admitted.  
15 (Defendant's Exhibits 4663, 4664, 4665, 4666, 4667,  
16 4668, 4669, 4670, 4671, 4672, 4673, 4674, 4675, 4676, 4677,  
17 4678 and 4680 received in evidence.)  
18 MR. SCHACHTER: Thank you, Your Honor.  
19 THE COURT: The jury can see them during  
20 deliberations. We will try to move this along.  
21 MR. SCHACHTER: And Your Honor, I'd just like to  
22 show and ask Mr. Jurkowitz about one portion of 4677 now in  
23 evidence.  
24 THE COURT: You may publish.  
25 (Exhibit published.)

VB OCR CRR

Jurkowitz - cross - Schachter 2741

1 MR. SCHACHTER: And if we can turn, please,  
2 Mr. McLeod, to the second-to-last page where it has a  
3 signature line.  
4 (Exhibit published.)  
5 Q Do you see where Marathon Asset Management signs this but  
6 states: It is solely in its capacity as investment manager to  
7 the funds listed in the attached Schedule-A.  
8 And then there's an attached schedule of specific  
9 funds.  
10 Do you understand those to be the funds, the  
11 entities that are actually doing the purchasing of the EMATUM  
12 LPNs?  
13 A I don't know. Not from reviewing the document. This  
14 document.  
15 Q Do you happen to have an understanding; yes or no? It  
16 lists checks under Reg S.  
17 Do you see that?  
18 A Yes.  
19 Q Do you understand these to all be off-shore funds?  
20 If you know.  
21 A I don't know.  
22 Q Thank you very much.  
23 MR. SCHACHTER: Mr. McLeod, you can take that down.  
24 Q Now, Ms. Moeser asked you some questions about how  
25 trading is conducted and I believe you described the, I think

VB OCR CRR

Jurkowitz - cross - Schachter 2742

1 you said, very rare circumstance that a trade may be canceled,  
2 do you recall that?  
3 A Yes.  
4 MR. SCHACHTER: I'm going to show you Defense -- I  
5 will offer Defense Exhibit 4644 and 4644-A.  
6 THE COURT: Publish to your adversary and let us  
7 know if there is any objection.  
8 MS. MOESER: Objection, Your Honor.  
9 THE COURT: All right.  
10 We'll have a side-bar.  
11 (Side-bar conference held on the record out of the  
12 hearing of the jury.)  
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14 (Continued on following page.)  
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VB OCR CRR

Side-Bar 2743

1 (Side-bar.)  
2 THE COURT: May I have the documents, please.  
3 4644; what is the objection to 4644?  
4 MS. MOESER: Your Honor, the witness is not on these  
5 documents and they don't appear to be Credit Suisse documents.  
6 THE COURT: They do not appear to be?  
7 MS. MOESER: Credit Suisse documents where the  
8 witness was employed.  
9 THE COURT: Okay.  
10 What is your response?  
11 MR. SCHACHTER: Your Honor, Ms. Moeser specifically  
12 inquired of this witness regarding Stone Harbor Investment  
13 Partners.  
14 And you see this is an e-mail from CreditSuisse.com.  
15 Ms. Moeser also asked about trade confirmations.  
16 THE COURT: Is it to Stone Harbor?  
17 MR. SCHACHTER: Correct, SHIP is Stone Harbor  
18 Investment Partners.  
19 And if you look at the attachment, it is a Credit  
20 Suisse Securities document. It is the trade confirmation with  
21 Stone Harbor Investment Partners.  
22 THE COURT: You did ask about Stone Harbor in your  
23 direct; did you not?  
24 MS. MOESER: I did, Your Honor.  
25 THE COURT: All right.

VB OCR CRR

1 So, I am going to overrule the objection. It comes  
2 in. They both come in.  
3 MS. MOESER: Thank you, Your Honor.  
4 MR. SCHACHTER: Thank you, Your Honor.  
5 (Side-bar end.)

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7 (Continued on following page.)  
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VB OCR CRR

1 And do you see, going back to the e-mail, you see  
2 where it talks about as a trade confirmation where they bought  
3 200,000 EMATUM LPNs and it's dated November 6th, 2013.  
4 Do you see that?  
5 A Yes.  
6 MR. SCHACHTER: And then, if we could just turn to  
7 the document itself.  
8 (Exhibit published.)  
9 Q In the upper right-hand corner, it's issued by Credit  
10 Suisse Securities Europe.  
11 Do you see that?  
12 A Yes.  
13 Q And it's addressed to Stone Harbor Investment Partners up  
14 in the upper left?  
15 A Yes.  
16 MR. SCHACHTER: And I just want to go through some  
17 information that's contained here.  
18 If we can blow up, Mr. McLeod, trade date,  
19 settlement date -- through settlement date in the middle. All  
20 right. And if we can just pull it up a little bit more so  
21 Mr. Jurkowitz can see the instrument that's being traded.  
22 Where it shows security description. Great, thank you. Okay.  
23 And then if we can just show a little bit further  
24 down, Mr. McLeod.  
25 Q Do you see where it also says: Our delivery instructions

VB OCR CRR

1 (In open court.)  
2 THE COURT: The objection is overruled, the  
3 documents are admitted.  
4 (Defendant's Exhibits 4644 and 4644-A received in  
5 evidence.)  
6 THE COURT: Call out the numbers again,  
7 Mr. Schachter.  
8 MR. SCHACHTER: Yes, Your Honor.  
9 Defense Exhibit 4644 and 4644-A.  
10 THE COURT: All right, you may examine the witness  
11 about these documents.  
12 (Exhibit published.)  
13 THE COURT: They are in evidence.  
14 MR. SCHACHTER: Thank you, Your Honor.  
15 Q Mr. Jurkowitz, you talked about in your direct testimony  
16 an entity called Stone Harbor Investment Partners; is that  
17 correct?  
18 A Yes.  
19 Q And that's -- you see that this is a trade confirmation  
20 that is generated by Credit Suisse, issued to Stone Harbor  
21 Investment Partners LP.  
22 Do you recognize that?  
23 A Yeah, it's not -- I do recognize it, but it's not  
24 something I've ever seen before, but yes.  
25 Q All right.

VB OCR CRR

1 and your delivery instructions?  
2 A Yes.  
3 Q And it makes a reference to our delivery instructions  
4 being the securities and it references Euroclear in Brussels.  
5 Do you see that?  
6 A Yes.  
7 Q Do you recognize that to be the depository that held the  
8 EMATUM securities?  
9 A Yes.  
10 Q And it also talks about cash with Euroclear Bank in  
11 Brussels.  
12 Do you see that?  
13 A Yes.  
14 Q Do you have an understanding that ultimately the cash and  
15 the security need to be held by the depository in Brussels?  
16 Do you have an understanding one way or the other?  
17 A Yes.  
18 Q And then, so this reflects a trade that was conducted  
19 between Credit Suisse Securities and Stone Harbor?  
20 A Yes.  
21 MR. SCHACHTER: And then, I will show you Defense  
22 Exhibit 4643-A -- 4643-A, actually.  
23 I'm sorry, Your Honor, we'll offer Defense  
24 Exhibit 4643-A.  
25 MS. NIELSEN: Any objection to 4643-A? Show it to

VB OCR CRR

Jurkowitz - cross - Schachter 2748

1 your adversary.

2 MS. MOESER: Your Honor, same objection.

3 THE COURT: Same ruling. Overruled.

4 Publish. It is admitted.

5 (Defendant's Exhibit 4643-A received in evidence.)

6 (Exhibit published.)

7 Q And are you able to see, sir, that this is the same trade

8 confirmation but here it's stamped canceled?

9 Do you see that?

10 A Yes.

11 Q All right. Last topic.

12 MR. SCHACHTER: You can take that down, Mr. McLeod.

13 Q When an investor purchased the loan participation notes,

14 what that investor is purchasing is the right to be repaid the

15 principle and interest on the EMATUM loan; is that correct?

16 A Yes.

17 THE COURT: As it was when you asked him before the

18 lunch break.

19 Q And these LPNs, they were issued in September of 2013?

20 A I don't remember the exact date, but.

21 Q Whatever that date was, those LPNs existed until they

22 were exchanged for Eurobonds in April of 2016?

23 THE COURT: Same question you asked before lunch.

24 He is going to give you the same answer.

25 Could you ask him some new questions, please? You

VB OCR CRR

Proceedings 2749

1 did ask him exactly that question.

2 MR. SCHACHTER: Yes, Your Honor.

3 Q You know that the loan did not default between

4 September of 2013 and April of 2016?

5 A I don't remember.

6 Q You don't remember if it did or did not?

7 A Yes, correct.

8 MR. SCHACHTER: All right. I have no further

9 questions, Your Honor.

10 THE COURT: Your witness.

11 MS. MOESER: No redirect, Your Honor.

12 THE COURT: Thank you.

13 You may step down, sir, you are done, thank you.

14 THE WITNESS: Thank you, Your Honor.

15 (Witness excused.)

16 THE COURT: All right, next witness, please.

17 MS. NIELSEN: Your Honor, the Government calls

18 Surjan Singh.

19 THE COURT: Have the witness come forward and be

20 sworn.

21 (Witness enters and takes stand.)

22 THE COURT: Please come forward, my Courtroom Deputy

23 will swear you in, sir, when you get to the front. Up here.

24 THE COURTROOM DEPUTY: Please raise your right hand.

25 (Continued on following page.)

VB OCR CRR

Proceedings 2750

1 SURJAN SINGH,

2 called as a witness having been

3 first duly sworn, was examined and testified

4 as follows:

5 THE WITNESS: I do swear.

6 THE COURT: I am sorry, I could not hear your

7 answer, sir.

8 THE WITNESS: Sir, I swear, Your Honor.

9 THE COURT: You said, "I do?"

10 THE WITNESS: Yes.

11 THE COURT: And the answer is yes?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay, good.

14 Please, have a seat. I am going to ask you so sit

15 down, and state your name, and spell it clearly for the court

16 reporter. This microphone will move forwards you, speak

17 clearly into it. Just state your name and spell it and

18 Counsel will inquire, all right?

19 Go ahead, sir.

20 THE WITNESS: Your Honor, my first name is Surjan,

21 that is spelled S-U-R-J-A-N. My second name is Singh, that is

22 S-I-N-G-H.

23 THE COURT: Thank you, sir.

24 Counsel, you may inquire.

25 MS. NIELSEN: Thank you, Your Honor.

VB OCR CRR

Singh - direct - Nielsen 2751

1 DIRECT EXAMINATION

2 BY MS. NIELSEN:

3 Q Good afternoon, Mr. Singh.

4 From approximately the year 2000 until February of

5 2017, what did you do for a living?

6 A Ma'am, I worked for a bank called Credit Suisse.

7 Q And where did you work at Credit Suisse?

8 A I worked in London.

9 Q And what is Credit Suisse?

10 A Credit Suisse is an investment bank.

11 Q And what positions did you hold from 2012 until you left

12 Credit Suisse in 2017?

13 A Ma'am, I was a managing director by title in Credit

14 Suisse.

15 Q Did you work in a particular division of Credit Suisse?

16 A Yes, ma'am.

17 Q And what division did you work in?

18 A It was the fixed income division.

19 Q And what is fixed income?

20 A Fixed income is a part of the bank that deals with loans

21 and debt securities.

22 Q Did you have a particular specialty in fixed income?

23 A Yes, ma'am. I worked in a team called GFG which was a

24 loans team for emerging markets.

25 Q And what did GFG stand for?

VB OCR CRR

Singh - direct - Nielsen 2752

1 A GFG stood for the Global Financing Group.

2 Q And what emerging markets did you work in?

3 A We worked in a region with the acronym CEEMEA, which

4 stood for Central Eastern Europe Middle East and Africa.

5 Q Did there come a time that you left Credit Suisse?

6 A Yes, ma'am.

7 Q And when was that?

8 A I left in February 2017.

9 Q And where did you go after you left?

10 A I worked for a Russian bank called Renaissance Capital.

11 THE COURT: Called Renaissance Capital, a Russian

12 bank.

13 Keep your voice up, sir.

14 THE WITNESS: Yes, sir.

15 Q What did you do at Renaissance Capital?

16 A Ma'am, it was the same job. It was a loans team, which

17 provided financing or loans to emerging markets clients.

18 Q Are you still working at Renaissance?

19 A No, ma'am.

20 Q Why did you leave?

21 A I left because to work in the U.K. in a bank requires FCA

22 registration and there was difficulty in me obtaining FCA

23 registration and so, I left the bank.

24 Q And what is FCA?

25 A FCA stands for Financial Conduct Authority.

VB OCR CRR

Singh - direct - Nielsen 2753

1 Q And what does the Financial Conduct Authority do?

2 A Ma'am, it is the key regulator in the U.K. for people in

3 the financial services.

4 Q And why were you having trouble with your registration?

5 A Because at the time there was an investigation into the

6 Mozambique transactions by the FCA into those Mozambique

7 transactions that I was related to when I was at Credit

8 Suisse.

9 Q Did you speak with the FCA about these Mozambique

10 transactions?

11 A Yes, ma'am, I did meet with the FCA.

12 Q Has the FCA investigation been resolved?

13 A I'm not sure, ma'am, if it's been resolved.

14 Q What do you do now, Mr. Singh?

15 A I'm unemployed, at the moment, ma'am.

16 Q Mr. Singh, did you engage in any criminal conduct while

17 you were employed at Credit Suisse between approximately 2013

18 and 2016?

19 A I'm ashamed to say yes, ma'am.

20 Q What did you do?

21 A Ma'am, I was aware that my then-boss, Andrew Pearse, had

22 been promised kickbacks by a gentleman called Jean Boustani

23 who represented a group of companies called Privinvest, and I

24 didn't tell anyone about that.

25 Further than that, I also agreed to receive

VB OCR CRR

Singh - direct - Nielsen 2754

1 kickbacks from Mr. Jean Boustani. And I did receive those

2 kickbacks and I didn't tell anyone about them at all,

3 including Credit Suisse.

4

5 (Continued on following page.)

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VB OCR CRR

Singh - direct - Nielsen 2755

1 EXAMINATION CONTINUING

2 BY MS. NIELSEN:

3 Q And, Mr. Singh, what is your understanding of what a

4 kickback is?

5 A A kickback is a bribe that is paid on success of a

6 transaction.

7 Q And how much did you get from Mr. Boustani?

8 A Ma'am, in total I received \$5.7 million.

9 Q And what were these payments for?

10 A These payments were for me lobbying and championing the

11 approvals of two Mozambique transactions, one was called

12 Proindicus and the upsizes in relation to that transaction.

13 And the other transaction was a transaction called EMATUM,

14 which Credit Suisse completed.

15 Q And, Mr. Singh, I believe you indicated that you didn't

16 tell Credit Suisse about these kickbacks?

17 A That is correct, ma'am.

18 THE COURT: You said "lobbying." Who were you

19 lobbying with respect to these loans at this time?

20 THE WITNESS: Your Honor, I was going through the

21 approval process internally at Credit Suisse to have these

22 transactions approved, and I supported them. I put my support

23 behind them. I allocated resources to get them approved. I

24 prioritized them over other transactions. And I got them

25 approved in the end.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2756

1 THE COURT: But the target of your lobbying effort  
 2 was Credit Suisse?  
 3 THE WITNESS: That is correct, sir.  
 4 THE COURT: Go ahead, counsel.  
 5 BY MS. NIELSEN:  
 6 Q And how did you conceal these payments from Credit  
 7 Suisse?  
 8 A So, ma'am, firstly, I didn't inform anyone about the  
 9 payments. Further, the payments were received in an offshore  
 10 bank account, which was opened with the help of Mr. Boustani  
 11 and other people.  
 12 Q And how did Mr. Boustani help you open this bank account?  
 13 A Ma'am, the bank account was opened in a place called Abu  
 14 Dhabi, which is within a country called United Arab Emirates.  
 15 To open a bank account there, you need to have a residency  
 16 permit of that country. And to have that residency permit you  
 17 need an address and you need employment. And Mr. Boustani  
 18 helped me gain those and the residency visa.  
 19 Q Mr. Singh, in relation to the Proindicus upsizes and the  
 20 EMATUM transactions that you worked on, were there investors  
 21 involved in those transactions?  
 22 A Yes, ma'am, there were.  
 23 Q Did you also conceal the kickbacks that you received from  
 24 the investors?  
 25 A Yes, ma'am.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2757

1 Q And how did you do that?  
 2 A I didn't inform anyone about the kickbacks, and by  
 3 "anyone" I mean specifically Credit Suisse and investors.  
 4 Q Mr. Singh, did you plead guilty to a crime in relation to  
 5 that conduct?  
 6 A Yes, ma'am, I have pled guilty.  
 7 Q What crime was that?  
 8 A I have pled guilty to the crime of conspiracy to commit  
 9 money laundering.  
 10 Q Did you commit that crime alone or with others?  
 11 A No, ma'am, with others.  
 12 Q And who did you commit that crime with?  
 13 A I committed that crime with Mr. Boustani and Andrew  
 14 Pearse.  
 15 Q Do you recognize anyone in this courtroom who was part of  
 16 the scheme?  
 17 A Yes, I recognize Mr. Boustani.  
 18 Q And can you point out the person that you think is  
 19 Mr. Boustani?  
 20 A It is the gentleman --  
 21 Q Can you describe an article of clothing?  
 22 MR. JACKSON: Your Honor, we'll stip to the  
 23 identification.  
 24 THE COURT: Oh, no, no, let's have the  
 25 identification. We don't want any stip.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2758

1 A It's the -- sorry, the one -- I can't see the color of  
 2 your tie, sir, otherwise I would describe it. The short hair,  
 3 one along from the end of the desk over there.  
 4 Q Can you tell the color of his shirt?  
 5 A Can I stand up, then I could?  
 6 THE COURT: You can stand up.  
 7 THE WITNESS: Thank you, sir.  
 8 The gentleman is not wearing a tie, he than has an  
 9 open collar and a blue shirt.  
 10 THE COURT: Sit down and say again what you just  
 11 said.  
 12 THE WITNESS: The gentleman I identify as  
 13 Mr. Boustani is not wearing a tie. He has a blue shirt and an  
 14 open top collar.  
 15 MS. NIELSEN: Your Honor, will the record reflect  
 16 that the witness has identified the defendant?  
 17 THE COURT: The record will so reflect the witness  
 18 has identified the defendant, Mr. Jean Boustani.  
 19 Please continue.  
 20 MS. NIELSEN: Thank you, Your Honor.  
 21 BY MS. NIELSEN:  
 22 Q What role did the defendant play in your criminal  
 23 conduct?  
 24 A The defendant helped me open a bank account, made  
 25 payments in those bank accounts. Upon success of the

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2759

1 transactions that we had discussed, the upsize of the  
 2 Proindicus transaction and the EMATUM transaction that Credit  
 3 Suisse did.  
 4 Q Did he also help you keep the scheme secret from Credit  
 5 Suisse and from investors?  
 6 A Yes, he -- he never revealed it to anyone, just like I  
 7 never revealed it.  
 8 Q Mr. Singh, were you ever the subject of disciplinary  
 9 proceedings while you were at Credit Suisse?  
 10 A Yes, ma'am, I have been.  
 11 Q What for?  
 12 A There was a time when I was investigated if I had  
 13 inappropriately sent confidential information outside of  
 14 Credit Suisse.  
 15 Q And when was that approximately?  
 16 A That was around the end of 2012, ma'am.  
 17 Q And what was the result of that proceeding?  
 18 A I was found to be not at fault. I was vindicated, so  
 19 there was no disciplinary action against me.  
 20 Q And when you were interviewed by the FCA that we  
 21 discussed earlier in relation to the Mozambique transactions,  
 22 did you tell the FCA about the kickbacks you'd received from  
 23 the defendant?  
 24 A No, I did not, ma'am.  
 25 Q And did you tell the FCA --

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2760

1 THE COURT: When were you interviewed by the FCA,  
2 approximately, what year?  
3 THE WITNESS: Your Honor, I was interviewed at the  
4 end off the year 2017.  
5 THE COURT: The end of the year 2017.  
6 All right, continue, counsel.  
7 BY MS. NIELSEN:  
8 Q And, Mr. Singh, were you interviewed once or twice?  
9 A I was interviewed twice, ma'am.  
10 Q Were they both at the end of 2017?  
11 A Sorry.  
12 THE WITNESS: Your Honor, there was one interview  
13 right at the end of 2017 in December; and I believe there was  
14 a follow-up interview done very early in 2018.  
15 THE COURT: Thank you, sir.  
16 Continue, counsel.  
17 MS. NIELSEN: Thank you, Your Honor.  
18 BY MS. NIELSEN:  
19 Q Mr. Singh, when you were interviewed, did you tell the  
20 FCA about Mr. Boustani's promise to pay kickbacks to Andrew  
21 Pearse in relation to Proindicus?  
22 A No, ma'am, I did not.  
23 Q Was it a violation of your obligations under your  
24 registration with the FCA not to inform them of the kickbacks  
25 at the time that you were registered?

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2761

1 A Ma'am, I became FCA-registered, I believe, in the year  
2 2000 when I started my Credit Suisse career. I can't remember  
3 the precise nature of the obligations I'm under, but if there  
4 was a duty to disclose, I -- I have failed that obligation.  
5 Q Mr. Singh, you indicated that you pled guilty to a crime.  
6 Did you plead guilty in connection with an agreement  
7 with the Government?  
8 A Yes, I did, ma'am.  
9 Q And roughly, when did you enter that agreement?  
10 A It was in the summer of this year.  
11 MS. NIELSEN: Your Honor, the Government would offer  
12 Government's Exhibit 3500-SS-3 for admission.  
13 THE COURT: Any objection to the admission of that  
14 document?  
15 MR. JACKSON: No objection, Your Honor.  
16 THE COURT: It is admitted.  
17 (Government's Exhibit 3500-SS-3 was received in  
18 evidence.)  
19 THE COURT: You may publish it to the jury.  
20 MS. NIELSEN: Thank you.  
21 Ms. DiNardo, would you bring up 3500 material-SS-3?  
22 (Exhibit published.)  
23 MS. NIELSEN: And, Your Honor, may we publish?  
24 THE COURT: You may publish. You have published.  
25 It's in evidence.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2762

1 MS. NIELSEN: Thank you.  
2 THE COURT: The jury, I believe, can see it. You  
3 just may want to blow up parts of it to make it more legible.  
4 BY MS. NIELSEN:  
5 Q And, Mr. Singh, do you recognize this document?  
6 A Yes, I do, ma'am.  
7 MS. NIELSEN: And, Ms. DiNardo, would you scroll to  
8 the last page, please?  
9 (Exhibit published.)  
10 THE COURT: What is it? What is the document?  
11 THE WITNESS: Your Honor, this is the Cooperation  
12 Agreement that I've signed with the Government.  
13 THE COURT: Now scroll to the last page, now that  
14 the jury knows what it is.  
15 MS. NIELSEN: Thank you, Your Honor.  
16 BY MS. NIELSEN:  
17 Q And, Mr. Singh, do you recognize your signature on this  
18 document?  
19 A Yes, I do, ma'am.  
20 Q And can you point to your signature, please?  
21 It should light up.  
22 THE COURT: If you touch the screen, put an X next  
23 to it or circle it.  
24 A (So marked.)  
25 Q Thank you.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2763

1 And, Mr. Singh, what is your understanding of what  
2 you have to do under this agreement?  
3 A Ma'am, I have to tell the truth.  
4 MS. NIELSEN: Ms. DiNardo, could you turn back to  
5 page 1, please?  
6 BY MS. NIELSEN:  
7 Q Do you also have to cooperate with the Government,  
8 Mr. Singh?  
9 A Yes, ma'am, in telling the truth, absolutely.  
10 THE COURT: Mr. Jackson, would you help him take  
11 that mark off the screen?  
12 THE COURTROOM DEPUTY: Sure, Judge.  
13 MS. NIELSEN: Thank you, Judge.  
14 THE COURT: I'm sure your counsel will show you how  
15 to do that during the next break.  
16 MR. BINI: Yes, Your Honor.  
17 THE COURT: Go ahead, counsel.  
18 MS. NIELSEN: Thank you.  
19 BY MS. NIELSEN:  
20 Q Mr. Singh, directing your attention to paragraph 1(a).  
21 A Yes, ma'am.  
22 Q What is the maximum term of imprisonment that you face  
23 under this agreement?  
24 A Twenty years, ma'am.  
25 Q And directing your attention to paragraph 1(c), what term

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2764

1 of supervised release do you face?

2 A Up to three years, ma'am.

3 MS. NIELSEN: And, Ms. DiNardo, if you could turn to

4 page 2, paragraph 1(d).

5 (Exhibit published.)

6 BY MS. NIELSEN:

7 Q Mr. Singh, do you face a fine under this agreement?

8 A Yes, I do, ma'am.

9 Q And how much is the fine likely to be?

10 A Ma'am, that is the greater of \$500,000 or twice the value

11 of the monetary instruments that were involved.

12 MS. NIELSEN: And, Ms. DiNardo, if we could look at

13 paragraph 1(e) that says "Restitution."

14 Q Mr. Singh, do you understand what restitution means?

15 A Yes, ma'am. The Court will determine what losses have

16 been caused by my conduct and I'll be liable to pay them.

17 MS. NIELSEN: And, Ms. DiNardo, if we could scroll

18 down to paragraph 1(g).

19 (Exhibit published.)

20 Q Mr. Singh, what is the requirement for you to do in

21 relation to the forfeiture indicated in paragraph 1(g) of your

22 agreement?

23 A Ma'am, the \$5.7 million that I have received illegally, I

24 need to return that as forfeiture to the Government.

25 Q And have you made any payments of this forfeiture?

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2765

1 A Yes, ma'am, I have made the full 5.7 million payment.

2 Q And you paid that amount to the Government?

3 A Yes, ma'am.

4 MS. NIELSEN: Ms. DiNardo, if you could scroll to

5 paragraph 3?

6 (Exhibit published.)

7 MS. NIELSEN: And blow up just the top few lines.

8 BY MS. NIELSEN:

9 Q Mr. Singh, what does this paragraph of your agreement

10 require of you?

11 A Ma'am, this requires that I cannot file any appeal

12 against any sentence that is given to me as long as that

13 sentence is 20 years or less.

14 MS. NIELSEN: And, Ms. DiNardo, if you could scroll

15 down to paragraph 4 and blow it up for us, please.

16 (Exhibit published.)

17 Q And, Mr. Singh, looking at the top two sentences, what

18 does this paragraph require of you?

19 A Ma'am, I have to cooperate with the Government by telling

20 them the whole truth.

21 MS. NIELSEN: And, Ms. DiNardo, if we could look at

22 paragraph 5.

23 (Exhibit published.)

24 Q And, Mr. Singh, if you cooperate with the Government and

25 tell the truth and fulfill your obligations under this

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2766

1 document, what do you understand is the Government's

2 obligation?

3 A The Government will not pursue other charges in the

4 Indictment against me. There were four charges in the

5 Indictment originally.

6 Q And, Mr. Singh, do you know what would happen to you

7 under this agreement if you don't tell the truth?

8 A The agreement would be void from the Government's

9 perspective. So, the -- it -- my charges against me will not

10 be limited to Count Four, other charges can be brought against

11 me, but it remains binding on me.

12 Q And did that mean that your guilty plea to the money

13 laundering conspiracy would still stand?

14 A Yes, ma'am, in addition to the payments that I returned

15 to the Government of \$5.7 million.

16 Q Mr. Singh, have you met with the Government since signing

17 this document?

18 A Yes, ma'am, I have.

19 Q Multiple times?

20 A Yes, ma'am.

21 Q And what did you do during those meetings?

22 A Ma'am, I was shown e-mails and documents from when I was

23 working at Credit Suisse that related to me to enable me to

24 refresh my memory and tell the truth.

25 Q And what is your understanding of what the Government

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2767

1 will give you in return for your cooperation under this

2 agreement, Mr. Singh?

3 A Ma'am, if I fulfill the terms of this agreement, there

4 will be a letter issued by the Government which relates to the

5 assistance that I have given them.

6 Q Is your understanding that this letter is often called a

7 5K1.1 letter?

8 A Yes, ma'am.

9 Q And what does the 5K letter do?

10 A It shows that I provided substantial assistance in the

11 case.

12 Q Will the Government recommend a specific sentence?

13 A No, ma'am.

14 Q And who decides if you get the 5K1.1 letter?

15 A Sorry, who decides if I receive it?

16 Q Yes.

17 A It is the Government, ma'am.

18 Q And who decides your sentence, Mr. Singh?

19 A It is His Honor.

20 Q And what do you think can happen if you lie today,

21 Mr. Singh?

22 A I will breach this agreement, and further I'll be subject

23 to other charges, such as perjury.

24 Q Now, Mr. Singh, you said that you worked for Credit

25 Suisse?

SAM OCR RMR CRR RPR



Singh - direct - Nielsen 2768

1 A That is correct, ma'am.

2 Q And where does Credit Suisse operate?

3 A Credit Suisse is a global investment bank.

4 Q And what part of Credit Suisse was your employer?

5 A I was employed in London.

6 Q Was there a particular legal entity of Credit Suisse that

7 was your employer?

8 A Yes, ma'am. My employer was a company called Credit

9 Suisse Securities Europe Limited.

10 Q And what is Credit Suisse Securities Europe Limited?

11 A It's a company or subsidiary within the Credit Suisse

12 Group.

13 Q Were there other entities of Credit Suisse that you

14 worked with?

15 A Yes, ma'am.

16 Q What were some of those entities?

17 A The two key entities that I worked with, one was called

18 Credit Suisse International; and the other one was called

19 Credit Suisse AG London Branch, and both of those were part of

20 the CS group.

21 Q When you did business for Credit Suisse, did you work

22 with other employees of Credit Suisse in other geographic

23 locations?

24 A Yes, ma'am, I did.

25 Q And what other geographic regions did you work with?

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2769

1 A Globally there was cooperation across the whole firm,

2 Asia, the U.S., all parts of emerging markets.

3 Q And when you did business for Credit Suisse, did you work

4 with other employees of Credit Suisse in other functional

5 areas?

6 A Yes, ma'am.

7 Q What types of functional areas?

8 A So, such as sales teams, coverage teams, people that were

9 connected with investors and clients of Credit Suisse.

10 Q And, Mr. Singh, would you share profits of a successful

11 deal with those offices of Credit Suisse if you worked

12 together?

13 A Yes, ma'am.

14 Q Now, you mentioned that you worked for, did you say, GFG

15 before?

16 A Yes, ma'am, that was the team I worked for.

17 Q When GFG conducted a transaction for a client, and you

18 said they did loans, is that correct?

19 A Yes, ma'am, it was a loans team.

20 Q So when GFG would extend a loan to a client, if it kept

21 the loan on its books, did the debt roll up to the Credit

22 Suisse parent company?

23 A Yes, ma'am, it was rolled up in the consolidated group.

24 THE COURT: For the witness: What do you mean by

25 rolled up?

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2770

1 THE WITNESS: Sorry. In the books and records of

2 the parent company in the group, it would be included, sir.

3 THE COURT: Thank you.

4 You may continue.

5 BY MS. NIELSEN:

6 Q Mr. Singh, was it your job to obtain business for Credit

7 Suisse while you worked there?

8 A Yes, it was, ma'am.

9 Q Were the Proindicus and EMATUM loans part of the Credit

10 Suisse business that you obtained for Credit Suisse when you

11 worked there?

12 A Yes, ma'am.

13 Q In addition to being an employee of Credit Suisse, did

14 you also own stock in Credit Suisse between 2012 and 2016?

15 A Yes, I did, ma'am.

16 Q And how did you obtain this stock?

17 A As part of the bonus that Credit Suisse would pay to its

18 employees, part of it was provided to you in shares in Credit

19 Suisse, or stocks.

20 Q What other Credit Suisse employees obtained stock in this

21 manner?

22 A All employees of a title vice president, director,

23 managing director, would receive stock in that manner.

24 Q To your knowledge, how many of the other Credit Suisse

25 employees involved in the criminal scheme that you described

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2771

1 to us earlier were also paid in stock of Credit Suisse between

2 2012 and 2016?

3 A My ex-boss Andrew Pearse also received stock in this

4 manner.

5 THE COURT: Anyone else who was a Credit Suisse

6 employee as far as you know?

7 THE WITNESS: Sir, not that I recall.

8 THE COURT: Go ahead.

9 BY MS. NIELSEN:

10 Q In what Credit Suisse entity was the stock that you

11 owned, Mr. Singh?

12 A It was Credit Suisse Group.

13 Q Was the stock traded on any U.S. stock exchanges?

14 A Yes, it was, ma'am.

15 Q When you worked at Credit Suisse, did you receive

16 training on Credit Suisse policies and codes?

17 A Yes, I did, ma'am.

18 Q When did you receive training?

19 A It was periodic and continuous throughout my time at

20 Credit Suisse.

21 Q Do you recall some of the policies that you received

22 training on?

23 A Yes, ma'am.

24 Q What were they?

25 A So policies that come to mind are Conflicts of Interest;

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2772

1 Anti-Corruption and Money Laundering.

2 Q And to whom did these policies apply?

3 A They applied globally to all employees of Credit Suisse.

4 Q As part of your employment at Credit Suisse, were you

5 required to follow these policies?

6 A Yes, ma'am.

7 Q And who did you understand required you to follow the

8 policies?

9 A Credit Suisse.

10 Q Were there managers above you at Credit Suisse?

11 A Yes, ma'am.

12 Q And did they require you to follow policy?

13 A Yes, ma'am.

14 Q In order to execute a business transaction at Credit

15 Suisse, were you also required to obtain authorization from a

16 managing entity or committee?

17 A Yes, ma'am.

18 Q What are some examples of those committees?

19 A Two key committees or senior management committees from

20 which we would need approval, one being Credit Risk Management

21 that was often called CRM; and they would, for a loans team,

22 provide approval as to how much money we can give from Credit

23 Suisse, how much we can hold, what the maturity of that loan

24 could be, the key economic risk of the loan.

25 And another committee was the Reputational Risk

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2773

1 Committee. And that committee included something called the

2 Compliance Departments, and that considered if Credit Suisse

3 wanted to be reputationally associated with a transaction, a

4 project, and key stakeholders within that transaction.

5 Q And to enter into a transaction on behalf of Credit

6 Suisse, were you required to have the approval of these

7 committees?

8 A Yes, ma'am, both.

9 Q Were you a member of any of these committees, Mr. Singh?

10 A No, ma'am.

11 Q And how often did you seek their approval for

12 transactions when you worked at Credit Suisse, approximately?

13 A For every transaction we would broadly need their

14 approval. Broadly for every transaction we completed at

15 Credit Suisse, we would need their approval. In terms of the

16 number of approvals I procured in the timeframe I was there,

17 maybe it was in the region of 70 to a hundred for both

18 committees.

19 Q And were you required to provide these committees with

20 information on which they based their decisions?

21 A Yes, ma'am.

22 Q And how did you do that?

23 A The deal teams, such as the team I worked in, which was

24 GFG, would put together a memorandum, memo, that would provide

25 all the details that we had learned about the transaction from

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2774

1 the clients, from other departments, from other research, and

2 we would put that together and we would submit it to the

3 relevant committee.

4 Q Mr. Singh, are you familiar with the term due diligence?

5 A Yes, ma'am.

6 Q Is that part of what you did to create the memos for the

7 committees?

8 A Yes, ma'am, absolutely.

9 Q In your training and experience at Credit Suisse, did the

10 committees that we just talked about expect you to comply with

11 Credit Suisse policies in providing them information and

12 requesting their authorization to execute a transaction?

13 A Yes, they did, ma'am.

14 Q In your training and experience at Credit Suisse, did all

15 of Credit Suisse management expect you to comply with Credit

16 Suisse policies in executing transactions on behalf of Credit

17 Suisse?

18 A Yes, ma'am.

19 Q Mr. Singh, when did you first become acquainted with the

20 defendant, Jean Boustani?

21 A I became acquainted with Mr. Boustani in very early 2012.

22 Q And what were the circumstances?

23 A I was working in the GFG team, and I --

24 THE COURT: In the what, I'm sorry?

25 THE WITNESS: Sorry, Your Honor. The GFG, Global

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2775

1 Financing Group team at Credit Suisse.

2 THE COURT: Go ahead.

3 A And I received an inquiry from a coverage officer, that's

4 a relationship officer at Credit Suisse that goes and finds

5 opportunities for us to lend. The relevant officer was called

6 Said Freiha, and he had sent on an inquiry for financing from

7 Mr. Boustani.

8 MS. NIELSEN: Your Honor, at this time the

9 Government would offer Government's Exhibit -- I'm sorry,

10 Ms. DiNardo, would you bring up Government's Exhibit 2020 in

11 evidence.

12 THE COURT: You may publish.

13 MS. NIELSEN: Thank you.

14 (Exhibit published.)

15 BY MS. NIELSEN:

16 Q Mr. Singh, do you recognize this document?

17 A Yes, ma'am.

18 Q And what is it?

19 A It is an e-mail chain I was on when I was at Credit

20 Suisse, ma'am.

21 MS. NIELSEN: And, Ms. DiNardo, if you would scroll

22 to the bottom of page 2. If you could blow that up, please,

23 at the bottom of page 2.

24 Q Mr. Singh, who is this e-mail from?

25 A This e-mail is from Jean Boustani to Said Freiha.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2776

1 Q Is that the individual that you just spoke about, the  
2 coverage officer?  
3 A Yes, ma'am.  
4 Q And what's the date on the document?  
5 A Ma'am, the date is the 20th of February 2012.  
6 Q And what is the business that the defendant is discussing  
7 in this e-mail?  
8 A It is showing us a project that they are working on in  
9 Mozambique, and they are asking Credit Suisse for our interest  
10 in providing financing to Mozambique for this project.  
11 Q And what is the project?  
12 A Ma'am, the project is security and surveillance in  
13 relation to the national waters of Mozambique.  
14 Q And who was the client at this time?  
15 A The -- there's two clients in this transaction. One  
16 client is the Republic of Mozambique, who would borrow money  
17 from Credit Suisse for this project. And the other client is  
18 Prinvest Group, who will take the money from Mozambique that  
19 has been loaned by Credit Suisse, in return for providing  
20 infrastructure for the project.  
21 Q Mr. Singh, do you see Prinvest Group indicated on this  
22 document anywhere?  
23 A No, not specifically there. At this stage the high level  
24 view as the client is Mozambique, the Ministry of Defense.  
25 Q And, I'm sorry, you said the other client is Prinvest?  

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2777

1 A That's right.  
2 Q And is there a Prinvest entity indicated on this  
3 document?  
4 THE COURT: Why don't you show the entirety of the  
5 document so he can answer the question?  
6 And, sir, I am going to ask you to move this  
7 microphone a little closer to you because you are drifting  
8 now. You have sort of a soft voice. It will twist. You can  
9 twist it towards you, up rather than down. There you go.  
10 Go ahead.  
11 THE WITNESS: Thank you, Your Honor.  
12 MS. NIELSEN: Thank you.  
13 THE COURT: Put the question again now that he can  
14 see the entire document and he can respond.  
15 BY MS. NIELSEN:  
16 Q So, Mr. Singh, you indicated that there were two clients  
17 related to this transaction, and we've identified on  
18 Government's Exhibit -- I'm sorry, Government of Mozambique,  
19 but I think that you also indicate that Prinvest was a  
20 client.  
21 Do you recognize any Prinvest entity on this  
22 e-mail?  
23 A Yes, ma'am, I do.  
24 Q And what is that?  
25 A It is detailed as the contractor, Abu Dhabi MAR.  

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2778

1 Q And what is the relationship of the defendant to Abu  
2 Dhabi MAR?  
3 A Mr. Boustani represented Abu Dhabi MAR, along with the  
4 Prinvest Group.  
5 Q And what was the value of the loan at this time?  
6 A The value of the loan, the loan amount to be provided was  
7 \$350 million.  
8 MS. NIELSEN: And, Ms. DiNardo, if you could scroll  
9 to the top of page 2. There you go. If you could highlight  
10 the e-mail at the top of page 2.  
11 (Exhibit published.)  
12 BY MS. NIELSEN:  
13 Q And, Mr. Singh, to whom did the defendant indicate that  
14 he was -- indicate that he was dealing in the Mozambique  
15 government on this transaction?  
16 A Ma'am, it was the office of the president.  
17 Q And what does the defendant say about syndication in this  
18 e-mail?  
19 A It is indicated that local banks, being Mozambican banks,  
20 would support the syndication and become investors in the  
21 transaction.  
22 Q And at the time did it appear to you that the defendant  
23 understood what syndication meant?  
24 A Yes, ma'am, it did appear.  
25 Q And, Mr. Singh, what do you know about the defendant's  

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2779

1 prior training and work experience, if anything?  
2 A I recall that he had told me he worked for Deloitte &  
3 Touche at some point in time. Deloitte & Touche being an  
4 accounting and auditing firm.  
5 Q Did you believe at the time that the defendant understood  
6 finance?  
7 A Yes, ma'am.  
8 Q And why do you say that?  
9 A Because we worked with Mr. Boustani over a long period of  
10 time. Invariably in a large project like this, multiple  
11 obstacles appear and there are many terms, term sheets,  
12 letters, that are provided. I don't recall the defendant ever  
13 being confused or unclear about what was being said.  
14 And also, I remember Mr. Boustani was very smart.  
15 He would often give intelligent solutions or alternatives to  
16 situations we were facing.  
17 Q Financial situations?  
18 A Yes, ma'am.  
19 MS. NIELSEN: And, Ms. DiNardo, if we could scroll  
20 up to the first e-mail on the top of page 1. Actually, all of  
21 that page, if you can roll it up a little bit, please.  
22 THE COURT: Counsel, please, keep your voice up  
23 too --  
24 MS. NIELSEN: Yes, Your Honor.  
25 THE COURT: -- so we can all hear it: The jury, the  

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2780

1 witness, opposing counsel, the Court. Do not mumble, do not  
 2 get tired. Do it.  
 3 MS. NIELSEN: Yes, Your Honor.  
 4 BY MS. NIELSEN:  
 5 Q Looking at the e-mail on the top of page 1, Mr. Singh,  
 6 who is that e-mail from?  
 7 A That is from Jean Boustani.  
 8 Q Are you copied on this e-mail?  
 9 A Yes, ma'am, I am.  
 10 Q And what is the e-mail exchange about?  
 11 A The e-mail is a response from Mr. Boustani to questions  
 12 that my colleague Said Freiha had sent in about the project  
 13 and the situation.  
 14 MS. NIELSEN: And, Ms. DiNardo, if you could scroll  
 15 down to the fourth bullet with red and black.  
 16 BY MS. NIELSEN:  
 17 Q What is your understanding of the difference between the  
 18 red and black text in this e-mail, Mr. Singh?  
 19 A Ma'am, the black text is the question that my colleague,  
 20 Said Freiha, has sent; and the red text is the response from  
 21 Mr. Boustani.  
 22 Q And what did the defendant say about syndication in his  
 23 response to Mr. Freiha here?  
 24 A He indicates that the Government of Mozambique will be  
 25 asking local banks to participate in the syndication.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2781

1 Q And if you look down a little bit further, there is an  
 2 indication that a premium is well expected by Mozambicans.  
 3 What is your understanding of what "premium" means?  
 4 A Ma'am, the question is asking if Mozambique, the  
 5 Government of Mozambique for the financing will pay a market  
 6 rate of interest, which can be a substantial amount of  
 7 interest. Some governments are not prepared to do this. And  
 8 Mr. Boustani is indicating by a premium is well expected by  
 9 the Mozambicans, that they expect to pay for the market rates  
 10 of financing.  
 11 Q And looking at the last sentence in the red portion, what  
 12 does the defendant indicate that his profit margin will be?  
 13 A It's indicated that it's approximately 10 percent.  
 14 Q And was it your understanding that that was the profit  
 15 margin for Abu Dhabi MAR?  
 16 A Yes, that's what's being indicated.  
 17 Q Mr. Singh, this exchange between the defendant and  
 18 Mr. Freiha, is that part of Credit Suisse's due diligence?  
 19 A Yes, ma'am.  
 20 Q Was anyone from the Mozambique government indicated on  
 21 this e-mail?  
 22 MS. NIELSEN: And, Ms. DiNardo, if you could come  
 23 out a little ways.  
 24 A No, ma'am, I don't see anyone from the Mozambique  
 25 government copied on the e-mail or referenced in the e-mail.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2782

1 Q Who did you understand was speaking for the Mozambique  
 2 government in relation to the negotiation of this transaction  
 3 at this point?  
 4 A At this point it's Mr. Boustani.  
 5 MS. NIELSEN: Your Honor, at this time the  
 6 Government would ask to admit Government's Exhibit 2024.  
 7 THE COURT: Any objection to 2024?  
 8 MR. JACKSON: No objection, Your Honor.  
 9 THE COURT: Admitted.  
 10 (Government's Exhibit 2024 was received in  
 11 evidence.)  
 12 THE COURT: Publish.  
 13 MS. NIELSEN: Thank you, Your Honor.  
 14 (Exhibit published.)  
 15 BY MS. NIELSEN:  
 16 Q Mr. Singh, what is this document?  
 17 A Ma'am, this is an e-mail chain I was on when I was at  
 18 Credit Suisse.  
 19 Q And may I direct your attention to the top of page 3?  
 20 A Yes, ma'am.  
 21 Q Who sent this e-mail, Mr. Singh?  
 22 A Ma'am, this is an e-mail that I have sent to  
 23 Mr. Boustani, copying other CS colleagues.  
 24 Q And what's the date?  
 25 A It is the 22nd of February, 2012.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2783

1 Q And what is the topic?  
 2 A The topic is a highly interested letter that Credit  
 3 Suisse is sending to Mr. Boustani.  
 4 Q And what is a highly interested letter?  
 5 A At the -- in a transaction often Credit Suisse will send  
 6 a letter that indicates we are interested in the financing.  
 7 It is by no means a commitment to provide financing, but it is  
 8 just an expression of interest, which is formally given in a  
 9 letter.  
 10 Q And why did you send the letter to the defendant?  
 11 A Because the defendant had requested it.  
 12 Q And if I could direct your attention to the bottom of the  
 13 second page.  
 14 MS. NIELSEN: Ms. DiNardo.  
 15 BY MS. NIELSEN:  
 16 Q Mr. Singh, did Mr. Boustani indicate that he reviewed the  
 17 letter?  
 18 A Yes, ma'am.  
 19 Q Looking at the next two e-mails.  
 20 MS. NIELSEN: Ms. DiNardo, if you could pull out so  
 21 the witness could see it. Thank you.  
 22 (Exhibit published.)  
 23 Q Looking at the next two e-mails, what did the defendant  
 24 tell you about the office of the president?  
 25 A Ma'am, the e-mail is asking me -- I'm sorry, the e-mail

SAM OCR RMR CRR RPR

1 from Mr. Boustani to me is asking me to split, out of the  
 2 \$350 million to be provided in the loan, how much is gonna be  
 3 given by Credit Suisse alone and how much by investors. And  
 4 Mr. Boustani is requesting this so the office of the president  
 5 can instruct the local banks as to how much money they should  
 6 be supporting the transaction by coming in.

8 (Continued on the following page.)

25 SAM OCR RMR CRR RPR

1 A My understanding is that's the son of the president,  
 2 ma'am.  
 3 Q And why did the defendant want you to address the highly  
 4 interested letter to the son of the president?  
 5 A I can't recall, ma'am.  
 6 Q Mr. Singh, did this e-mail have an attachment?  
 7 A Yes, ma'am, it did.  
 8 Q And what was the attachment?  
 9 A It was the highly interested letter.  
 10 MS. NIELSEN: Your Honor, the Government would move  
 11 at this time to admit Government Exhibit 2024-A.  
 12 THE COURT: Any objection?  
 13 MR. JACKSON: No objection.  
 14 THE COURT: Admitted.  
 15 (Government Exhibit 2024-A received in evidence.)  
 16 THE COURT: You may publish.  
 17 (Exhibit published.)  
 18 MS. NIELSEN: Thank you.  
 19 BY MS. NIELSEN:  
 20 Q Mr. Singh, is this the attachment to the e-mail that we  
 21 just reviewed?  
 22 A Yes, ma'am.  
 23 Q Is this the highly interested letter?  
 24 A Yes, it is, ma'am.  
 25 Q Who drafted it?

SN OCR RPR

1 bY MS. NIELSEN: (Continuing.)  
 2 Q And what president did you understand him to mean?  
 3 A Ma'am, the president of Mozambique.  
 4 MS. NIELSEN: And, Ms. DiNardo, if we can go to the  
 5 second -- the e-mail on the bottom of the first page, please.  
 6 (Exhibit published.)  
 7 BY MS. NIELSEN:  
 8 Q Who is this e-mail from, Mr. Singh?  
 9 A Ma'am, this e-mail is from Mr. Boustani to myself and  
 10 copying some CS colleagues.  
 11 Q And to whom did the defendant instruct you to address the  
 12 highly interested letter?  
 13 A It's to be addressed to the Office of HE -- as I  
 14 understand, it stands for His Excellency The President of The  
 15 Republic of Mozambique, attention Mr. Armando Ndambi Guebuza.  
 16 THE COURT: Would you spell that for the reporter,  
 17 please?  
 18 THE WITNESS: A-R-M-A-N-D-O, N-D-A-M-B-I,  
 19 G-U-E-B-U-Z-A.  
 20 THE COURT: Zed being Z?  
 21 THE WITNESS: Yes, Your Honor.  
 22 THE COURT: Thank you.  
 23 Go ahead.  
 24 BY MS. NIELSEN:  
 25 Q Mr. Singh, who is Mr. Armando Ndambi Guebuza?

SN OCR RPR

1 A I drafted it.  
 2 Q Who is it addressed to?  
 3 A It is addressed to the Office of His Excellency, The  
 4 President of The Republic of Mozambique attention Mr.Armando  
 5 Ndambi Guebuza, Office of His Excellency, The President of The  
 6 Republic of Mozambique.  
 7 Q And why was it addressed to the son of the president at  
 8 the Office of HE, The President of The Republic of Mozambique?  
 9 A Because Mr. Boustani had requested this addressee.  
 10 MS. NIELSEN: And, Ms. DiNardo, if we could come out  
 11 a little bit.  
 12 Q What does the letter convey, Mr. Singh?  
 13 A Ma'am, the letter conveys that Credit Suisse is  
 14 interesting -- interested, my apologies, in the financing to  
 15 be provided to Mozambique. It provides some high-level terms,  
 16 key economic terms, as to what the terms of that financing may  
 17 be, and under the section that you're looking at there are  
 18 standard disclaimers that Credit Suisse has to ensure that  
 19 this letter is a letter of interest and not a letter to commit  
 20 to give financing.  
 21 MS. NIELSEN: And, Ms. DiNardo, if you could scroll  
 22 down and blow up the next paragraph which I believe the  
 23 witness is mentioning.  
 24 Q Is this the paragraph you mentioned, Mr. Singh?  
 25 A Yes, ma'am.

SN OCR RPR

Singh - direct - Nielsen 2788

**1 Q** And could you read, please, the last clause indicated by

**2** Roman numeral VI?

**3 A** Yes, ma'am. The receipt of all necessary internal credit

**4** and committee approvals with respect to the financing that's

**5** satisfactory in form and substance to CS.

**6 Q** And what is that?

**7 A** Ma'am, that's making it clear that a financing can only

**8** be provided once all internal approvals have been obtained at

**9** Credit Suisse.

**10 Q** And looking up to the top of --

**11** MS. NIELSEN: Thank you, Ms. DiNardo.

**12 Q** Looking up to the facility size, what is that?

**13 A** Ma'am, that is discussing the amount of the financing to

**14** be provided which is detailed at \$350 million, of which 150,

**15** I'm indicating, will be provided by Credit Suisse and,

**16** therefore, 200 million would be coming from other investors.

**17 Q** And what was the purpose of this \$350 million loan?

**18 A** Ma'am, it was for the project. The facility purpose is

**19** detailed above. It says, to finance the construction of the

**20** exclusive economic zone, which was referred to often as the

**21** EEZ, monitoring and protection system to be supplied by Abu

**22** Dhabi Mar Group.

**23 Q** What's your understanding of what the EEZ is?

**24 A** Broadly, ma'am, that's the national orders of Mozambique.

**25 Q** And what was the project related to the EEZ that's

SN OCR RPR

Singh - direct - Nielsen 2789

**1** described in this letter?

**2 A** Ma'am, it was the security and surveillance of those

**3** waters through the use of offshore patrol boats, radars and

**4** other infrastructure.

**5 Q** And who was going to provide the patrol boats and radars

**6** and other infrastructure?

**7 A** That was going to be provided by Abu Dhabi Mar, part of

**8** their investment.

**9 Q** And how involved in the negotiations of the financing of

**10** this loan was the defendant?

**11 A** Mr. Boustani was very involved in the financing.

**12 Q** Who was Credit Suisse's primary contact in negotiating

**13** the financing with the Mozambican government?

**14 A** It was Mr. Boustani.

**15** MS. NIELSEN: Your Honor, at this time the

**16** government asks to admit Government Exhibit 2026.

**17** THE COURT: Any objection?

**18** MR. JACKSON: No objection, Your Honor.

**19** THE COURT: Admitted.

**20** (Government Exhibit 2026 received in evidence.)

**21** THE COURT: You may publish.

**22** (Exhibit published.)

**23** BY MS. NIELSEN:

**24 Q** What is this document, Mr. Singh?

**25 A** Ma'am, this is an e-mail chain I was on when I was at

SN OCR RPR

Singh - direct - Nielsen 2790

**1** Credit Suisse.

**2 Q** And who is it from?

**3 A** It is from Mr. Boustani to myself and other Credit Suisse

**4** colleagues.

**5 Q** And what is the date?

**6 A** It is the 9th of March, 2012.

**7 Q** And, Ms. DiNardo, if you would scroll down to the first

**8** e-mail in this chain which is on page 2?

**9** BY MS. NIELSEN:

**10 Q** Mr. Singh, who sent this e-mail?

**11 A** This e-mail is from Mr. Boustani.

**12 Q** And what's the subject?

**13 A** The subject is Mozambique EEZ project.

**14 Q** And what did the defendant say about Teofilo Nhangumele?

**15 A** Mr. Nhangumele was a project coordinator in relation to

**16** the Mozambique government and specifically the office of the

**17** president.

**18 Q** And what was Mr. Boustani doing with Mr. Nhangumele

**19** according to this e-mail?

**20 A** He had communicated our offer or highly detailed letter

**21** with terms detailed in it.

**22** MS. NIELSEN: Ms. DiNardo, if I could have you

**23** scroll up to the bottom of page one. I'm sorry, to the top of

**24** page one.

**25** BY MS. NIELSEN:

SN OCR RPR

Singh - direct - Nielsen 2791

**1 Q** Mr. Singh, how did Mr. Boustani explain that the EEZ

**2** project came about?

**3 A** Ma'am, he details in the e-mail the EEZ project

**4** Mozambique was created by Abu Dhabi Mar, meaning through their

**5** high-level connections they have persuaded them to protect

**6** their national waters.

**7** MS. NIELSEN: Your Honor, the Government would ask

**8** at this time to admit Government Exhibit 2041.

**9** THE COURT: Any objection?

**10** MR. JACKSON: No objection, Your Honor.

**11** THE COURT: Admitted.

**12** (Government Exhibit 2041 received in evidence.)

**13** THE COURT: You may publish.

**14** (Exhibit published.)

**15** MS. NIELSEN: Thank you.

**16** MS. NIELSEN: Ms. DiNardo, could I have you scroll,

**17** please, to the third page at the top of the third page and

**18** make it larger. Thank you.

**19** BY MS. NIELSEN:

**20 Q** Mr. Singh, what is this?

**21 A** Ma'am, this is an e-mail chain I was on when I was at

**22** Credit Suisse.

**23 Q** And who is this e-mail from, the e-mail at the top?

**24 A** It is from Mr. Teo Nhangumele.

**25 Q** Is that the individual that we just spoke about?

SN OCR RPR

Singh - direct - Nielsen 2792

1 A Yes, ma'am.

2 Q And who is it to?

3 A It is to my CS colleague Said Freiha and it copies

4 Mr. Boustani, myself and another CS colleague.

5 Q And do you know what was going on related to the EEZ

6 transaction negotiations at this time?

7 A They had been considered at the Mozambican side in

8 relation to the terms and conditions that had been provided.

9 Q Would you read, please, what Mr. Nag has written under

10 Dear Said?

11 A Dear Said: Thank you very much for the e-mail and for

12 the effort that was made to accommodate our precarious

13 situation. I honestly note and appreciate your effort and I

14 trust this effort will also be noted appreciatively by my

15 superiors. I am confident that we are on a good path. I have

16 communicated with my superiors and will keep you posted on

17 developments. Best regards, Teo.

18 Q And who did you understand Mr. Nhangumele's superiors to

19 be?

20 A I understood it to be the president of Mozambique as he

21 worked in the office of the president.

22 Q Did you think that Mr. Nhangumele worked anywhere else

23 other than the office of the president of Mozambique?

24 A No, ma'am.

25 Q What is the date of this e-mail again, Mr. Singh?

SN OCR RPR

Singh - direct - Nielsen 2793

1 A Ma'am, the date is the 13th of June, 2012.

2 MS. NIELSEN: And, Ms. DiNardo, if you could scroll

3 to page one.

4 BY MS. NIELSEN:

5 Q Mr. Singh, who sent this e-mail?

6 A Ma'am, this e-mail is from Mr. Boustani to myself and

7 Said Freiha at CS.

8 Q What as the date?

9 A The date was the 23rd of June, 2012.

10 Q And what is the e-mail about?

11 A Ma'am, it's a summary of Mr. Boustani's discussions with

12 the MoF which is a typical acronym that people use to describe

13 the ministry of finance.

14 Q And what specifically is it dealing with?

15 A So, they are confirming the project size. The second

16 large paragraph with bullets describes how they would like to

17 draw down or utilize the loan. And the third paragraph with a

18 number of bullets describes how they would like to repay the

19 loan.

20 Q Does it say anything about the interest rate?

21 A Yes, ma'am. Below that it is asking for a reduction in

22 the fees that Credit Suisse is asking for and the interest

23 rate that they are asking for.

24 Q And what were they asking for?

25 A They are asking that the interest rate is reduced to

SN OCR RPR

Singh - direct - Nielsen 2794

1 LIBOR plus 6 percent.

2 Q And what is LIBOR?

3 A LIBOR stands for London Interest Bank Offered Rate. The

4 important thing to note is it is a benchmark variable interest

5 rate so that interest rate is determined by the market over

6 time.

7 Q And this e-mail was from the defendant, Jean Boustani;

8 correct?

9 A That is right, ma'am.

10 Q And at the time did you understand that he understood

11 what he was telling you in relation to the financing terms?

12 MR. JACKSON: Objection.

13 THE COURT: Overruled.

14 What's your understanding?

15 THE WITNESS: I can answer the question?

16 THE COURT: Yes, you may.

17 A He understood the financing, ma'am. He understood the

18 terms.

19 MS. NIELSEN: Your Honor, the Government would ask

20 to admit Government Exhibit 2042.

21 THE COURT: Any objection?

22 MR. JACKSON: No objection, Your Honor.

23 THE COURT: Admitted.

24 (Government Exhibit 2042 received in evidence.)

25 THE COURT: You may publish.

SN OCR RPR

Singh - direct - Nielsen 2795

1 MS. NIELSEN: Thank you. And also 2042-A and

2 2042-B.

3 THE COURT: Any objection to 2042-A?

4 MR. JACKSON: No objection to either of those Your

5 Honor.

6 THE COURT: They're admitted.

7 (Government Exhibit 2042-A and 2042-B received in

8 evidence.)

9 THE COURT: You may publish.

10 (Exhibit published.)

11 MS. NIELSEN: Thank you, Your Honor.

12 BY MS. NIELSEN:

13 Q Mr. Singh, what is this document?

14 A Ma'am, this is an e-mail chain I was on when I was at

15 Credit Suisse.

16 Q And who is it from?

17 A It is from Mr. Teo Nhangumele -- I'm sorry. It is from

18 myself.

19 Q And who is it to?

20 A Mr. Teo Nhangumele.

21 THE COURT: Would you spell Mr. Nhangumele name.

22 THE WITNESS: Of course, Your Honor.

23 THE COURT: Thank you, sir.

24 THE WITNESS: The firms name is Teo, although in

25 other e-mails it's Teofilo. It's a longer name.

SN OCR RPR

Singh - direct - Nielsen 2796

1 THE COURT: How is it spelled? Do you know?

2 THE WITNESS: I'm sorry, Your Honor.

3 THE COURT: Let's go with the one that you know.

4 How is Teo spelled.

5 THE WITNESS: T-E-O.

6 THE COURT: And the last name, would you spell it

7 for the reporter.

8 THE WITNESS: N-H-A-N-G-U-M-E-L-E.

9 THE COURT: Thank you, sir, please continue.

10 BY MS. NIELSEN:

11 Q And what is his e-mail address at the top?

12 A It is Teo.Nhangumele@yahoo.com.

13 Q And what is the date on this e-mail?

14 A The date is the 25th of June, 2012.

15 Q And what is the e-mail regarding?

16 A Ma'am, this is a follow-up in the financing terms that

17 Credit Suisse is offering and I am sending to Mr. Nhangumele

18 an update with the financing terms with some reductions in

19 interest rate and some other terms that are more favorable to

20 the borrower.

21 Q Are there attachments to this e-mail?

22 A Yes, ma'am, there are.

23 Q What are the attachments?

24 A The attachments are term sheets so they are reasonably

25 detailed terms and conditions of a financing that Credit

SN OCR RPR

Singh - direct - Nielsen 2797

1 Suisse were providing.

2 MS. NIELSEN: Ms. DiNardo, if you would please turn

3 to Government Exhibit 2042-B in evidence.

4 (Exhibit published.)

5 Q What is this, Mr. Singh?

6 A Ma'am, this is the term sheet that was attached to the

7 e-mail that we just reviewed.

8 Q And what is the date on the term sheet?

9 A It is the 26th of June, 2012.

10 MS. NIELSEN: And Ms. DiNardo if you could scroll

11 down a little bit.

12 BY MS. NIELSEN:

13 Q Who is the borrower indicated on this term sheet?

14 A The borrower is The Republic of Mozambique, acting

15 through the ministry of finance.

16 Q And is this the same facility that you had been

17 negotiating in the last several e-mails we just discussed?

18 A That is correct, ma'am.

19 MS. NIELSEN: Ms. DiNardo could you turn to page

20 four, please? And can you blow up at the top where it says

21 Syndication Terms? Thank you.

22 BY MS. NIELSEN:

23 Q What does this section mean?

24 A Ma'am, this talks about the plan of Credit Suisse to

25 bring in investors into the transaction and how we will meet

SN OCR RPR

Singh - direct - Nielsen 2798

1 the health of borrower and other support may be required.

2 MS. NIELSEN: And, Ms. DiNardo, if you could turn to

3 Government Exhibit 2042.

4 Q Mr. Singh, was this term sheet sent to the defendant,

5 Mr. Boustani?

6 A Mr. Boustani is copied on this e-mail.

7 Q Is that a yes?

8 A Yes, ma'am, sorry.

9 Q Thank you.

10 MS. NIELSEN: Your Honor, at this time the

11 Government would ask to admit Government Exhibit 2043.

12 THE COURT: Any objection?

13 MR. JACKSON: No objection, Your Honor.

14 THE COURT: Admitted.

15 (Government Exhibit 2043 received in evidence.)

16 THE COURT: You may publish.

17 (Exhibit published.)

18 MS. NIELSEN: Could you blow up the entire document,

19 Ms. DiNardo.

20 BY MS. NIELSEN:

21 Q What is this document, Mr. Singh?

22 A Ma'am, this is an e-mail chain I was on when I was at

23 Credit Suisse.

24 Q And who sent the e-mail at the top?

25 A The top e-mail is sent from myself to Mr. Boustani

SN OCR RPR

Singh - direct - Nielsen 2799

1 copying Credit Suisse colleagues.

2 Q And what's the date?

3 A It is the 26th of June, 2012.

4 Q And if we look at the bottom e-mail, the first e-mail in

5 the chain, who sent that e-mail?

6 A That is from Mr. Boustani to myself and other CS

7 colleagues.

8 Q Is it to the same date?

9 A Yes, ma'am.

10 Q And what did the defendant tell you about the president

11 in this e-mail?

12 A They had received a call from the president.

13 Q And what was the call about?

14 A It's in relation to the financing and it doesn't seem as

15 though the financing terms are attractive to them. There are

16 restrictions based on the agreements they have with the IMF

17 for commercial loans, so those are the types of loans that

18 Credit Suisse would give. The main issue is that it is too

19 short and the hope is that there can be some creative or

20 intelligent idea to bridge the main differences between what

21 Mozambique wants and what Credit Suisse can provide.

22 MS. NIELSEN: And, Ms. DiNardo, if we can look at

23 the e-mail on top of the -- the next e-mail in the chain at

24 the top of page one.

25 BY MS. NIELSEN:

SN OCR RPR



Singh - direct - Nielsen 2800

1 Q What did you respond to the defendant, Mr. Singh?

2 A Ma'am, I am highlighting that if the Government is

3 looking for a concessional loan, which is a form of aid that

4 often development agencies provide that looks like a loan,

5 then that is not something that Credit Suisse can provide.

6 However, if they are looking for a greater solution

7 on how to make the pricing appear more attractive for

8 Mozambique, the loan interests to be significantly lower, then

9 there is a solution by which the contractor, Privinvest, can

10 pay a fee to Credit Suisse which would allow us to reduce this

11 interest rate to Mozambique.

12 Q And is that fee sometimes called by another name?

13 A Yes, ma'am. It's often referred to in the market as a

14 subvention fee.

15 Q And why would a company pay such a fee?

16 A Because there are two beneficiaries in this transaction,

17 two clients. The first is The Republic of Mozambique which is

18 borrowing money from Credit Suisse. And the second is who

19 Mozambique will pay that money to to buy goods and services

20 from. So, the thought in general is that if the Privinvest

21 group will pay a fee to Credit Suisse, then this will allow

22 Mozambique to borrow the money, them to sell the goods and,

23 ultimately, Privinvest will make a smaller profit, but they

24 will still make a profit because the financing goes ahead and

25 people can purchase goods and services from them.

SN OCR RPR

Singh - direct - Nielsen 2801

1 MS. NIELSEN: At this time, Your Honor, the

2 Government would move to admit Government Exhibit 2051.

3 THE COURT: Any objection?

4 MR. JACKSON: No objection, Your Honor.

5 THE COURT: Admitted.

6 (Government Exhibit 2051 received in evidence.)

7 THE COURT: You may publish.

8 (Exhibit published.)

9 BY MS. NIELSEN:

10 Q Mr. Singh, what is this document?

11 A Ma'am, this is an e-mail chain that I was on when I was

12 at Credit Suisse.

13 MS. NIELSEN: And, Ms. DiNardo, if we could scroll

14 to the first e-mail in the chain which begins at the bottom of

15 page two, I believe.

16 BY MS. NIELSEN:

17 Q Mr. Singh, who is this e-mail from?

18 A Ma'am, this e-mail is from Said Freiha at Credit Suisse

19 to Mr. Boustani copying me and other CS colleagues.

20 Q What is the date on the e-mail?

21 A It is the 3rd of August, 2012.

22 Q And what does Mr. Freiha tell Mr. Boustani that he needs

23 in the first sentence of this e-mail?

24 A He says: In anticipation of the potential financing,

25 please find a list -- a first list of questions that CS legal

SN OCR RPR

Singh - direct - Nielsen 2802

1 and compliance would need answered. And then there are three

2 questions below. Should I read the questions?

3 Q No, that's fine. Thank you.

4 What are CS legal and compliance?

5 A Ma'am, CS legal and compliance are two departments within

6 Credit Suisse. The legal team provide us with sign off for

7 the financing document that we wish to provide and the

8 compliance team are part of the process which provides the

9 reputational risk approval that I talked about earlier.

10 Q And did the defendant respond to Mr. Freiha?

11 A Yes, ma'am.

12 Q How can you tell?

13 A Mr. Freiha's questions are in black and Mr. Boustani's

14 replies are in red.

15 MS. NIELSEN: And, Ms. DiNardo, if you can scroll

16 down a little bit. Thank you.

17 BY MS. NIELSEN:

18 Q Is that how you can tell, from the next e-mail?

19 A Yes, ma'am.

20 Q Okay.

21 MS. NIELSEN: Ms. DiNardo, if you could show the

22 entire e-mail.

23 Q What did the defendant respond to Mr. Freiha about about

24 the use of proceeds in this e-mail?

25 A Mr. Freiha is asking, the monies that you wish to borrow,

SN OCR RPR

Singh - direct - Nielsen 2803

1 will they be used for the intended project and Mr. Boustani

2 replies, all of the money will be used, the full \$355 million

3 that has been discussed.

4 Q And in your experience with Credit Suisse, what was the

5 reason that Credit Suisse legal and compliance needed the

6 information about the use of proceeds?

7 A They wanted to know the use of proceeds so that they

8 could understand if, number one, there was anything in the use

9 of proceeds that they would not want to be associated with,

10 such as, I don't know, projects where there's environmental

11 damage or anything like that. And, further, they want to know

12 that the monies will only be used for that purpose and no

13 other purposes.

14 Q And was the use of proceeds of the loan important to

15 Credit Suisse's decision of whether to extend the loan to the

16 Government of Mozambique?

17 A Yes, it was, ma'am.

18 MS. NIELSEN: Ms. DiNardo, if you could scroll up to

19 the top e-mail on this page. Thank you. If we could see the

20 entire line that says, Given that the Government approached.

21 BY MS. NIELSEN:

22 Q Mr. Singh, in this paragraph what did the defendant

23 indicate his profit margin would be?

24 A He's indicating his profit margin is approximately 15

25 percent.

SN OCR RPR

1 Q And directing your attention to the third bullet, what  
 2 did Mr. Freiha ask for in that third bullet?  
 3 A Sorry, ma'am. I can't see the full e-mail.  
 4 Q I'm sorry.  
 5 MS. NIELSEN: Could you come out a little bit  
 6 Ms. DiNardo?  
 7 BY MS. NIELSEN:  
 8 Q The third bullet I hope you can see it here and if  
 9 Ms. DiNardo will blow it up it starts with, Are there any  
 10 subcontractors.  
 11 A Thank you, ma'am. Sorry, what was the question?  
 12 Q What did Mr. Freiha ask for?  
 13 A Mr. Freiha is asking are there any subcontractors and, if  
 14 so, how much of the U.S. 355 million will go to them.  
 15 Q And what was Mr. Boustani's response?  
 16 A There were no subcontractors. ADM, meaning Abu Dhabi Mar  
 17 has all in-house capabilities to do the whole project from A  
 18 to Z, the whole thing.  
 19 Q And what would that include?  
 20 A The project is composed of mainly ships and --  
 21 THE COURT: The project is composed of mainly ships  
 22 and electronic sensors. The latter will be purchased from  
 23 suppliers and all will be integrated by ADM team. The  
 24 supplier's equipment constitute less than 50 percent of the  
 25 total cost. The major chunk are the boats we will build.

SN OCR RPR

1 THE COURT: We will take our 15 minute break.  
 2 (Recess taken.)  
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 4 (Continued on the following page.)  
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SN OCR RPR

1 Is that what it says, sir?  
 2 THE WITNESS: Yes, Your Honor.  
 3 THE COURT: All right. Why don't we take a  
 4 15-minute break so counsel can get her voice back. We will  
 5 see you in 15 minutes. Do not talk about the case and  
 6 certainly do not discuss the case with anyone during the  
 7 break.  
 8 Stay right there until the jury has left the  
 9 courtroom.  
 10 (Jury exits.)  
 11 THE COURT: Sir, you may step down. Thank you.  
 12 (Witness steps down.)  
 13 THE COURT: We will resume in 15 minutes.  
 14 Sir, you will leave the courtroom and go where you  
 15 were before.  
 16 Ladies and gentlemen of the public, you may be  
 17 seated. The witness is leaving the courtroom.  
 18 Do we have any issues to address in the absence of  
 19 the jury, in the absence of the witness and in the presence of  
 20 the defendant as we begin our break?  
 21 Anything from the Government?  
 22 MS. NIELSEN: Nothing from the Government, Your  
 23 Honor.  
 24 THE COURT: Anything from defense counsel?  
 25 MR. JACKSON: Nothing Your Honor, thank you.

SN OCR RPR

1 (Continuing)  
 2 (In open court.)  
 3 (Judge WILLIAM F. KUNTZ, II enters the courtroom.)  
 4 THE COURTROOM DEPUTY: All rise.  
 5 Judge Kuntz presiding.  
 6 THE COURT: Thank you.  
 7 We have appearances, you may be seated. We are  
 8 going to have the defendant produced.  
 9 Do we have any procedural issues to address before  
 10 we bring the jury in to complete the day?  
 11 MR. BINI: Not for the Government.  
 12 May we put the witness back on the stand,  
 13 Your Honor?  
 14 THE COURT: We can do that, but let's get the  
 15 defendant seated first, shall we?  
 16 MR. BINI: Yes, Your Honor.  
 17 MR. JACKSON: And we have no issues, Your Honor.  
 18 THE COURT: Okay. Thank you.  
 19 (Defendant enters the courtroom.)  
 20 THE COURT: All right. The defendant is now  
 21 present.  
 22 MS. NIELSEN: May I resume?  
 23 THE COURT: You may bring the witness in please, and  
 24 have him seated.  
 25 Mr. Jackson would you have the CSO bring in the

VB OCR CRR

Singh - direct - Nielsen 2808

1 jury.

2 (Witness resumes stand.)

3 THE COURT: Please, have a seat, sir, you can remain

4 standing until the jury comes in. They will be here

5 momentarily.

6 Again, try to keep your voice up. I know it is the

7 end of the day, but keep your voice up and speak directly into

8 the microphone in front of you and that will help.

9 THE WITNESS: I will do so, Your Honor.

10 THE COURT: Thank you.

11 (Jury enters.)

12 THE COURT: Again, I thank you ladies and gentlemen

13 for your promptness. You see I really do know what 15 minutes

14 looks like, sort of. Please, be seated. We are going to

15 continue with the testimony.

16 Please, be seated, sir. I am going to ask you the

17 question I said I would: Have you spoken with anyone about

18 your testimony during the break?

19 THE WITNESS: No, sir.

20 THE COURT: Thank you.

21 Continue your inquiry, Counsel, and we are going to

22 stop at 5:00 on the dot. I keep my promises to the jury.

23 Guided by that, keep your voice up.

24 Counsel, go ahead.

25 MS. NIELSEN: Yes, Your Honor.

VB OCR CRR

Singh - direct - Nielsen 2809

1 DIRECT EXAMINATION (Continuing)

2 BY MS. NIELSEN:

3 MS. NIELSEN: The Government would ask to admit

4 Government's Exhibit 2057.

5 THE COURT: Any objection to 2057?

6 MR. JACKSON: No objection, Your Honor.

7 THE COURT: Admitted. You may publish.

8 (Government's Exhibit 2057 received in evidence.)

9 (Exhibit published.)

10 MS. NIELSEN: Thank you, Your Honor.

11 Ms. DiNardo, if you would scroll to page 5.

12 (Exhibit published.)

13 MS. NIELSEN: Actually, Ms. DiNardo, can we go back

14 to page 1, I'm sorry.

15 (Exhibit published.)

16 Q And Mr. Singh, what is this document?

17 A Ma'am, this is an e-mail chain I was on when I was at

18 Credit Suisse.

19 Q And what is the date?

20 A The date is the 6th of September, 2012.

21 Q And is Mr. Boustani on this e-mail as well?

22 A Yes, ma'am.

23 MS. NIELSEN: Ms. DiNardo, now can we go to page 5,

24 please.

25 (Exhibit published.)

VB OCR CRR

Singh - direct - Nielsen 2810

1 Q Looking at the e-mail on the top of this page, who is it

2 from?

3 A Ma'am, it is from Teo Nhangumele to Mr. Jean Boustani.

4 Q And what is the date?

5 A The date is the 3rd of September, 2012.

6 Q And what does Mr. Nhangumele say that the Ministry of

7 Finance has given Jean Boustani in paragraph 1?

8 A Ma'am, it says the Minister of Finance has given

9 Mr. Boustani a mandate to negotiate the terms of the financing

10 for the project.

11 Q And what did you understand that to mean?

12 A That he has the ability to go forth and negotiate terms

13 with Credit Suisse for the final financing, within some

14 parameters.

15 Q And when you say "he," who do you mean?

16 A I mean Mr. Boustani.

17 Q And looking down to bullet one, under: Please let's move

18 very quickly on this one.

19 A Yes, ma'am.

20 Q What did Mr. Nhangumele describe in this bullet?

21 A Ma'am, he is planning a visit to see Mr. Safa, who is the

22 owner of Privinvest, and Mr. Boustani as well. With the

23 delegation from Mozambique.

24 Q And who would be included in the delegation from

25 Mozambique, according to this e-mail?

VB OCR CRR

Singh - direct - Nielsen 2811

1 A Ma'am, it lists the names Junior, myself -- meaning

2 Mr. Nhangumele -- and either he owner or H-E owner of a

3 handwritten passport, three people.

4 Q And who is Junior?

5 A Ma'am, I understand Junior to be a reference to the son

6 of the president.

7 THE COURT: The president of?

8 THE WITNESS: The president of the Republic of

9 Mozambique, sir.

10 THE COURT: Go ahead.

11 MS. NIELSEN: And Ms. DiNardo, if we could scroll up

12 to the next e-mail in the chain.

13 Q And who is this e-mail from, Mr. Singh?

14 A Sorry, this e-mail is from Mr. Boustani to Said Freiha.

15

16 (Continued on following page.)

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25

VB OCR CRR

Singh - direct - Nielsen 2812

1 EXAMINATION CONTINUING

2 BY MS. NIELSEN:

3 Q And what did the defendant indicate about the deal in

4 this e-mail?

5 A Mr. Boustani's indicating that he knows Credit Suisse

6 will not be able to do this deal with the parameters shown,

7 but he's asking if Credit Suisse can arrange this financing

8 from other banks giving concessional loans.

9 MS. NIELSEN: And, Ms. DiNardo, if we can please

10 look at the e-mail that begins on the bottom of page 2.

11 (Exhibit published.)

12 BY MS. NIELSEN:

13 Q And who is this e-mail from?

14 A Ma'am, this e-mail is from Mr. Boustani to Said Freiha,

15 copying myself and other CS colleagues.

16 Q And what is the date on this one?

17 A It is the 5th of September, 2012.

18 Q Would you please read the line starting with "Fully

19 understood. I recall"?

20 A Fully understood. I recall also we have discussed with

21 Ed the mechanism for upfront payment of the interest. So is

22 it -- so it is not a problem.

23 Q What was your understanding of what the defendant meant

24 when he said upfront payment of interest?

25 A Ma'am, I understand this to be a reference to the

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2813

1 subvention fee that we had talked about earlier where the

2 creditor would pay a fee to Credit Suisse so that we can

3 reduce the interest rate to be paid by Mozambique.

4 MS. NIELSEN: And, Ms. DiNardo, if we can scroll

5 back for a moment to the last e-mail, the one about the

6 meeting. No, the one before, Ms. DiNardo. To the first

7 bullet.

8 BY MS. NIELSEN:

9 Q So in this bullet if you see, Mr. Singh, it indicates

10 that the visit was planned with a Mr. Safa?

11 A That is right.

12 Q And, sorry, who did you say Mr. Safa was again?

13 A I understand Mr. Safa to be the owner of Prinvest

14 Group.

15 Q And what was his relationship to Mr. Boustani?

16 A I guess he was Mr. Boustani's boss because Mr. Boustani

17 represented Prinvest Group.

18 Q Did the defendant continue to negotiate the terms of the

19 loan with Credit Suisse as indicated in this -- in these

20 e-mails?

21 A Yes, ma'am, he did.

22 MS. NIELSEN: And, Your Honor, at this time the

23 Government would move to admit Exhibit 2061.

24 THE COURT: Any objection to 2061 being admitted?

25 MR. JACKSON: No objection.

SAM OCR RMR CRR RPR

Singh - direct - Nielsen 2814

1 THE COURT: Admitted.

2 (Government's Exhibit 2061 was received in

3 evidence.)

4 THE COURT: You may publish.

5 (Exhibit published.)

6 BY MS. NIELSEN:

7 Q And, Mr. Singh, what is this?

8 A Ma'am, this is an e-mail chain I was on when I was at

9 Credit Suisse.

10 Q If I could direct your attention to the bottom of page 1.

11 A Yes, ma'am.

12 Q Who sent this e-mail?

13 A This e-mail is from Mr. Boustani to Said Freiha, copying

14 myself, Andrew Pearse and other CS colleagues.

15 Q And who was Andrew Pearse at this time?

16 A Ma'am, Andrew Pearse was my boss at that time at Credit

17 Suisse.

18 Q And what was the date on the e-mail?

19 A That is on the 12th of September, 2012.

20 Q And in this e-mail what does the defendant say about the

21 GoM?

22 A So, GoM, which I understand to mean Government of

23 Mozambique, will go ahead with CS.

24 Q What did that mean?

25 A This was a comment after an internal meeting between

SAM OCR RMR CRR RPR

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1 Prinvest Group and a Mozambican delegation, after which they

2 decided to proceed with Credit Suisse to provide the

3 financing.

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5 (Continued on the following page.)

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1 BY MS. NIELSEN: (Continuing.)  
 2 MS. NEILSEN: And Ms. DiNardo, if you could scroll  
 3 down to the top part of page 2 which continues the e-mail.  
 4 BY MS. NIELSEN:  
 5 Q If you look down to the middle of this blow up, the line  
 6 that starts with, We are ready to meet, what does the  
 7 defendant indicate about a meeting?  
 8 A Mr. Boustani is indicating that they are ready to meet  
 9 with my boss, Andrew Pearse, on Thursday afternoon in Abu  
 10 Dhabi.  
 11 Q And do you know if that meeting actually occurred?  
 12 A Yes, it did, ma'am.  
 13 Q Do you know who from Credit Suisse attended that meeting?  
 14 A I know Andrew Pearse attended. I don't recall if anyone  
 15 else attended.  
 16 Q Do you know if anyone else from Mozambique attended the  
 17 meeting? Perhaps I can draw your attention to the next  
 18 paragraph.  
 19 A (Reviewing.)  
 20 My understanding is that --  
 21 MR. JACKSON: Objection.  
 22 THE COURT: Overruled. He's talking about his  
 23 understanding. You get to cross-examine.  
 24 Go ahead. It's overruled.  
 25 A My understanding is that Armando Ndambi Guebuza, the son

SN OCR RPR

1 Mr. Pearse and the individuals indicated about a subvention  
 2 fee, if you know?  
 3 MR. JACKSON: Objection.  
 4 THE COURT: Overruled.  
 5 If you know.  
 6 THE WITNESS: I can answer?  
 7 THE COURT: If I overruled the objection, you can  
 8 answer. If I sustained it, it means you cannot answer. You  
 9 may answer because I overruled his objection.  
 10 THE WITNESS: Thank you.  
 11 A A subvention fee is agreed in relation to the transaction  
 12 in addition to all the key economic terms of the financing to  
 13 be provided.  
 14 Q Do you know if an amount was agreed upon in or around  
 15 this time?  
 16 A Yes, ma'am.  
 17 Q Do you recall what that amount was?  
 18 A It was \$49 million.  
 19 MS. NIELSEN: Your Honor, at this time the  
 20 Government would move to admit Government Exhibit 2153.  
 21 THE COURT: Any objection to 2153, the last exhibit  
 22 for the day?  
 23 MR. JACKSON: Technically it's 5 o'clock, Judge.  
 24 THE COURT: I asked if you had an objection.  
 25 MR. JACKSON: No objection.

SN OCR RPR

1 of the president of Mozambique, Teofilo Nhangumele, myself --  
 2 and Mr. Boustani is referring to himself will attend the  
 3 meeting along with Mr. Safa the owner of Privinvest Group.  
 4 Q Do you know if those individuals actually attended the  
 5 meeting?  
 6 A I recall they did.  
 7 Q And how do you know that?  
 8 A From my discussions with my boss, Andrew Pearse.  
 9 Q What was your role in the loan negotiations at this  
 10 point?  
 11 A At this point when my boss Andrew Pearse meets with the  
 12 Privinvest team and the delegation for Mozambique, he becomes  
 13 key point person for Credit Suisse and I support him on more  
 14 the internal process at Credit Suisse in the transaction.  
 15 MS. NIELSEN: And, Ms. DiNardo, if we could scroll  
 16 up to the top of this e-mail, please.  
 17 BY MS. NIELSEN:  
 18 Q What's the date again on this e-mail?  
 19 A Ma'am, the date on this e-mail is the 12th of September,  
 20 2012.  
 21 Q And do you know when the meeting that was discussed in  
 22 this e-mail occurred?  
 23 A It refers to Thursday, so the day after this, the 13th of  
 24 September, 2012.  
 25 Q What, if anything, was decided at this meeting between

SN OCR RPR

1 THE COURT: It is admitted.  
 2 (Government Exhibit 2153 received in evidence.)  
 3 THE COURT: You may publish.  
 4 MS. NIELSEN: Thank you, Your Honor.  
 5 (Exhibit published.)  
 6 BY MS. NIELSEN:  
 7 Q What is this document, Mr. Singh?  
 8 A Ma'am, this is an e-mail chain I was on when I was at  
 9 Credit Suisse.  
 10 Q What is the date of this e-mail?  
 11 A The 15th of February, 2013.  
 12 Q And who is it from?  
 13 A It is from Mr. Jean Boustani to Detelina Subeva who was a  
 14 colleague of mine within the GFT group in Credit Suisse and I  
 15 am copied the e-mail.  
 16 Q And what is the subject of the e-mail?  
 17 A CEO of Proindicus.  
 18 Q And what is Proindicus?  
 19 A Ma'am, so, for the project of the security and  
 20 surveillance of the national waters of Mozambique, the  
 21 Government at some state decides rather than take the  
 22 financing directly themselves to create a project company.  
 23 That project company is Proindicus and that project company  
 24 will be the company that takes the financing, the loan from  
 25 Credit Suisse, and that will procure infrastructure from

SN OCR RPR

Singh - direct - Nielsen 2820

1 Privinvest Group.

2 MS. NIELSEN: And Ms. DiNardo if we could scroll

3 down to the first e-mail in the chain which I believe was on

4 page 2.

5 Q Mr. Singh, who sent this e-mail?

6 A Ma'am, this is from Mr. Jean Boustani to Detelina Subeva

7 and Andrew Pearse.

8 Q And what is indicated in this e-mail?

9 A It is indicated who is the CEO of Proindicus, this

10 project company.

11 Q And who is that?

12 A Mr. Eugenio Matlaba.

13 THE COURT: Spell that for the Court Reporter.

14 THE WITNESS: Of course, Your Honor. E-U-G-E-N-I-O,

15 M-A-T-L-A-B-A.

16 MS. NIELSEN: Ms. DiNardo, if you would scroll up to

17 the next e-mail, please.

18 BY MS. NIELSEN:

19 Q Mr. Singh, from this e-mail, can you tell if Mr. Teo

20 Nhangumele is still involved in the transaction?

21 A Yes, I can, ma'am.

22 Q And how can you tell that?

23 A Because he is referenced in the e-mail by my colleague

24 Detelina Subeva that they require confirmation from Teo, Teo

25 Nhangumele in relation to the exact directors of the company.

SN OCR RPR

Singh - direct - Nielsen 2821

1 Q Who is this e-mail from?

2 A It's from Detelina Subeva to Mr. Boustani, copying

3 myself.

4 Q Who is Detelina Subeva at this time?

5 A Detelina Subeva is a colleague of mine within the GFT

6 team who is working on the Mozambique transactions with myself

7 and Andrew Pearse.

8 Q And with respect to Mr. Nhangumele, for how long do you

9 recollect that he continued to be involved in the Proindicus

10 transaction?

11 A He was involved, from my recollection, up until the point

12 when the first Proindicus financing closes and that is around

13 the end of March 2013. After that, I don't have any

14 recollection of Mr. Nhangumele being in the transaction.

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16 (Continued on the following page.)

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SN OCR RPR

Singh - direct - Nielsen 2822

1 (continuing)

2 THE COURT: But I do have a recollection that it is

3 now 5:00 o'clock and therefore, we are adjourning for the day.

4 We will resume tomorrow at 9:30 a.m.

5 Please, do not talk about the case, Ladies and

6 Gentlemen of the Jury.

7 Sir, please do not talk about the case with anyone

8 tonight.

9 Have a good evening, ladies and gentlemen, and we

10 will see you tomorrow. And again, we are not meeting on

11 Monday, the courthouse is closed. If you forget, do not get

12 mad at the Judge, all right?

13 THE JURY: We promise.

14 THE COURT: I figured you would remember that.

15 Okay. Thank you.

16 THE COURTROOM DEPUTY: All rise.

17 (Jury exits.)

18 (In open court; outside the presence of the jury.)

19 THE COURT: You may step down, sir, thank you.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: The jury has left the courtroom. You

22 may be seated ladies and gentlemen of the public.

23 You may leave, sir, thank you. We will see you

24 tomorrow at 9:30 a.m.

25 (Witness excused.)

VB OCR CRR

Proceedings 2823

1 THE COURT: Do we have any questions, any procedural

2 issues to address outside of the presence of the jury, outside

3 of the presence of the witness but in the presence of the

4 defendant before we adjourn for the day?

5 Anything from the Government?

6 MR. BINI: Not for the Government, Your Honor.

7 THE COURT: Anything from Defense Counsel?

8 MR. JACKSON: No, thank you, Your Honor.

9 THE COURT: Thank you, everyone. Have a good

10 evening. See you tomorrow at 9:30 a.m.

11 ALL: Thank you, Judge.

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13 (Matter adjourned to Wednesday, November 6th, 2019

14 at 9:30 a.m.)

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